
WEST BENGAL LAND REFORMS ACT, 1955

10 of 1956

[30th March, 1956]

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WEST BENGAL LAND REFORMS ACT, 1955

10 of 1956

[30th March, 1956]

An Act to reform the law relating to land tenure consequent on the vesting of all estates and of certain rights therein 1[and also to consolidate the law relating to land reforms] in the State. It is hereby enacted as follows:

CHAPTER 1

1. Short title, extent and commencement :-

(1) This Act may be called the West Bengal Land Reforms Act, 1955.

(2) It extends to the whole of West Bengal¹ [except the area described in Schedule I of the Calcutta Municipal Corporation Act, 1980 but not excepting the area included in the said Schedule, which, immediately before the coming into force of the Calcutta Municipal Corporation (Amendment) Act, 1983, was comprised in the municipality of Jadavpur, South Suburban or Garden Reach:]

2 Provided that the State Government may, from time to time by notification in the Official Gazette, extend and bring into force the provisions of this Act, in whole or in part, to such part or parts of the area described in Schedule I to the Calcutta Municipal Act, 1951, with effect from such date or dates as may be specified in the notification.

(3) This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into force on such date or dates and in such district or part of a district as the State Government may from time to time by notification in the Official Gazette specify.

1. Words, figures and brackets subs. for the words and figures "except the area described in Schedule I of the Calcutta Municipal Act, 1951, as deemed to have been amended under section 594 of that Act." by W.B. Act 5 of 1986.

2. Proviso ins. by W.B. Act 50 of 1981.

1A. Declaration as to the policy of the State :-

1 It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution of India.

1. Section 1A ins. by W.B. Act 50 of 1981.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,

(1) "agricultural year" means the Bengali year commencing on the first day of Baisakh;

(2) "bargadar" means a person who under the system generally

known as adhi, barga or bhag cultivates the land of another person on condition of delivering a share of the produce of such land to that person ¹[and includes a person who under the system generally known as kisan 5(or by any other description) cultivates the land of another person on condition of receiving a share of the produce of such land from that person.]²[, but does not include a person who is related to the owner of the land as

- (a) wife, or
- (b) husband, or
- (c) child, or
- (d) grand child, or
- (e) parent, or
- (f) grand parent, or
- (g) brother, or
- (h) sister, or
- (i) brother's son or brother's daughter, or
- (j) sister's son or sister's daughter, or
- (k) daughter's husband, or
- (l) son's wife, or
- (m) wife's brother or wife's sister, or
- (n) brother's wife].

3Explanation. A bargadar shall continue to be a bargadar until cultivation by him is lawfully terminated under this Act;

(3) "certificate" means a certificate signed under the Bengal Public Demands Recovery Act, 1913;

(4) "Collector" means the Collector of a district or any other officer appointed by the State Government to discharge any of the functions of a Collector under this Act;

(5) "consolidation" includes re-arrangement of parcels of land comprised in a holding or in different holdings for the purpose of rendering such holding or holdings more compact;

4(6) "co-sharer of a raiyat in a plot of land" means a person, other than the raiyat, who has an undemarcated interest in the plot of land along with the raiyat;

5(6A) "incumbrance" means any lien, easement or other right or interest created by a raiyat on his holding or in limitation of his own interest therein, but does not include the right of the bargadar to cultivate the land of the holding;

6(7) "land" means land of every description and includes tank, tank-fishery, fishery, homestead, or land used for the purpose of livestock breeding, poultry farming, dairy or land comprised in tea garden, mill, factory, workshop, orchard, hat, bazar, ferries, tolls or land having any other sairati interests and any other land together with all interests, and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to earth;

(8) "Personal cultivation" means cultivation by a person of his own land on his own account

(a) by his own labour, or

(b) by the labour of any member of his family, or

(c) by servants or labourers on wages payable in cash or in kind ⁷[(not being as a share of the produce)] or both:

8 Provided that such person or member of his family resides for the greater part of the year in the locality where the land is situated and the principal source of his income is ⁹[produce of] such land.

8 Explanation. The term "family" shall have the same meaning as in clause (c) of section 14K;

(9) "prescribed" means prescribed by rules made by the State Government under this Act;

11(9A) "prescribed authority" means an authority appointed by the State Government, by notification in the Official Gazette, for all or any of the purposes of this Act;

12(10) "raiyat" means a person or an institution holding land for any purpose whatsoever;

(11) "revenue" means whatever is lawfully payable or deliverable in money or kind or both by a raiyat under the provisions of this Act in respect of the land held by him;

(12) "Revenue Officer" means any officer whom the State Government may appoint by name or by virtue of his office in any area;

13 (13) "Scheduled Tribe" shall have the same meaning as in clause (25) of article 366 of the Constitution of India.

1. Words ins. by W.B. Act 12 of 1972, w.e.f. 12.2.1971.

2. Words, letters and brackets ins. by W.B. Act 31 of 2000.

3. 'Expln.' ins. by W.B. Act 50 of 1981.

4. Clause (6) subs. by W.B. Act 31 of 2000, which was earlier as under: '(6) "holding" means the land or lands held by a raiyat and treated as a unit for assessment of revenue;'

5. Clause (6A) ins. by W.B. Act 18 of 1965.

6. Clause (7) subs. by W.B. Act Act 50 of 1981, which was earlier as under: "(7) "land" means agricultural land other than land comprised in a tea- garden which is retained under sub-section (3) of section 6 of the West Bengal Estates Acquisition Act, 1953, and includes home-steads but does not include tank. Explanation: "Homestead" shall have the same meaning as in the West Bengal Estates Acquisition Act, 1953.'

7. Words and brackets ins. by W.B. Act 12 of 1972.

8. Proviso and Expln. ins. by W.B. Act 34 of 1977.

9. Words subs. for the words "produced from" by W.B. Act 39 of 1978, w.e.f. 3.2.1978.

11. Clause (9A) ins. by W.B. Act 11 of 1966.

12. Clause (10) subs. by W.B. Act 50 of 1981, which was earlier as under: '(10) "raiyat" means a person or an institution holding land for purpose of agriculture;'

13. Clause (13) ins. by W.B. Act 19 of 1986, w.e.f. 31.7.1965.

3. Act to override other laws :-

1 The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in any custom or usage or contract, express or implied, or agreement or decree or order or decision or award of a court, tribunal or other authority.

1. Sec. 3 subs, by W.B. Act 50 of 1981, which was earlier as under: "3. Act to override other laws, etc. The provisions of this Act shall have effect notwithstanding anything in any other law or any custom or usage or in any contract expressed or implied inconsistent with the provisions of this Act."

3A. Rights of non-agricultural tenants and under-tenants in

non-agricultural land to vest in the State :-

1

(1) The rights and interests of all non-agricultural tenants and under-tenants under the West Bengal Non-Agricultural Tenancy Act, 1949 shall vest in the State free from all encumbrances, and the provisions of sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953 shall apply, with such modifications as may be necessary, mutatis mutandis to all such non-agricultural tenants and under-tenants as if such non-agricultural tenants and under-tenants were intermediaries and the land held by them were estates and a person holding under a non-agricultural tenant or under-tenant were a raiyat.

Explanation. Nothing in sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953 shall be construed to affect in any way the vesting of the rights and interests of a non-agricultural tenant or under-tenant under the West Bengal Non-Agricultural Tenancy Act, 1949 in the State under sub-section (1) of this section.

(2) Notwithstanding anything contained in sub-section (1), a non-agricultural tenant or under-tenant under the West Bengal Non-Agricultural Tenancy Act, 1949, holding in his khas possession any land to which the provisions of sub-section (1) apply, shall, subject to the other provisions of this Act, be entitled to retain as a raiyat the said land which together with other lands, if any, held by him shall not exceed the ceiling area under section 14M.

(3) Every intermediary,

(a) whose land held in his khas possession has vested in the State under sub-section (1), or

(b) whose estates or interests, other than land held in his khas possession, have vested in the State under sub-section (1), shall be entitled to receive an amount to be determined in accordance with the provisions of section 14V.

(4) The provisions of this section shall not apply to any land to which the provisions of the Calcutta Thika Tenancy (Acquisition and Regulation) Act, 1981, apply.

(5) This section shall be deemed to have come into force on and from the 9th day of September, 1980.

1. Sec. 3A first ins. by W.B. Act 50 of 1981, then subs. by W.B. Act 35 of 1986. Previous sec. 3A was as under: "3A. Rights of all non-agricultural tenants and under-tenants in non-agricultural land to vest in the State. (1) The rights of all non-agricultural tenants and under-tenants under the West Bengal Non-Agricultural Tenancy Act, 1949 shall vest in the State free from all incumbrances and the provisions of sections 4, 5 and 5A of Chapter II of the West Bengal Estates Acquisition Act, 1953 shall, with such modification as may be necessary, apply mutatis mutandis to non-agricultural tenants and undertenants within the meaning of the West Bengal Non-Agricultural Tenancy Act, 1949 as if such non-agricultural tenants and under-tenants were intermediaries and the land held by them were estates and a person holding under a non-agricultural tenant or under-tenant were a raiyat. (2) On the vesting of the estates and rights of intermediaries in any non-agricultural land under sub-section (1), the provisions of Chapter IIB of this Act shall apply. (3) Every intermediary whose estates or interests have vested in the State under sub-section (1), shall be entitled to receive an amount to be determined in accordance with the provisions of section 14V of this Act."

CHAPTER 2

Raiyats

4. Rights of raiyat in respect of land :-

(1) Subject to the other provisions of this Act, a raiyat shall on and after the commencement of this Act be the owner of his holding and the holding shall be heritable and transferable.

(2) Nothing in sub-section (1) shall entitle a raiyat to subsoil rights.

1(2A) No raiyat shall

(a) quarry sand, or permit any person to quarry sand, from his holding, or

(b) dig or use, or permit any person to dig or use, earth or clay of his holding for the manufacture of bricks or tiles, for any purpose, other than his own use, except with the previous permission in writing of the State Government and in accordance with such terms and conditions and on payment of such fees as may be prescribed.

2(2B) If any raiyat commits a breach of the provisions of sub-section (2A), the prescribed authority may, after giving in the prescribed manner an opportunity to the raiyat to show cause against the action proposed to be taken, impose upon him **3**[a fine not exceeding two thousand rupees, and where the breach is a

continuing one, a further fine not exceeding two hundred rupees for each day] during which the breach continues. Such fine, if not duly paid, shall be recoverable as a public demand.

2(2C) An appeal shall lie from any order made under sub-section (2A) in accordance with the provisions of sections 54 and 55.

5(3) * * * * *

(4) Notwithstanding anything in sub-section (1), the holding of a raiyat, excluding his homestead, **6**[shall vest in the State free from all incumbrances under an order of the prescribed authority made in the prescribed manner] after such enquiry as it thinks fit and after giving the raiyat an opportunity to show cause against the action proposed to be taken if

(a) he has without any reasonable cause used the land comprised in the holding or a substantial part thereof for any purpose other **7**[that for which it was held by him or settled by the State or directly incidental thereto];

(b) he has without any reasonable cause ceased to keep the land or any substantial part thereof under personal cultivation **8**[or has failed to utilise the land consistently with the original purpose of the tenancy or for any purpose directly incidental thereto] for a period of three consecutive years or more except when such land is under a usufructuary mortgage mentioned in section 7;

(c) he has without any reasonable cause failed to bring the land comprised in the holding or any substantial part thereof under personal cultivation **7**[or has failed to utilise the land consistently with the original purpose of the tenancy or for any purpose directly incidental thereto] within three consecutive years of the date on which this Act comes into force or of the date on which he came into possession of such land, whichever is later;

(d) he has let out the whole or any part of the holding :

Provided that nothing in this sub-section shall prevent the raiyat from cultivating any part of his holding by a bargadar.

10 (5) On the holding of a raiyat being vested in the State under subsection (4), his ownership therein shall cease and the rights of the lessee, if

1. Sub-section (2A) first ins. by W.B. Act 18 of 1965. then subs. by W.B. Act 11 of 1966. Previous sub-sec. (2A) was as under: "(2A) No raiyat shall dig or use, or permit any person to dig or use, earth or clay of his holding for the manufacture of bricks or tiles for any purpose, other than his own use, except with the previous permission in writing of the State Government and in accordance with the terms and conditions, if any, of such permission."
2. Sub-sees. (2B) and (2C) ins. by W.B. Act 18 of 1965.
3. Words subs. for the words "a fine not exceeding three hundred rupees and, where the breach is a continuing one, a further fine not exceeding fifty rupees for each day" by W.B. Act 23 of 1969.
5. Sub-sec. (3) om. by W.B. Act 12 of 1972, which was as under: "(3) No raiyat shall be entitled to own more than twenty-five acres of land, excluding homestead: Provided that (a) in the case of a Co-operative Farming Society, such society may own a total area as provided for in section 43; (b) in the case of persons who have retained lands under clause (f) in so far as it relates to orchards or under clauses (h), (i) and (j) of sub-section (1) of section 6 of the West Bengal Estates Acquisition Act, 1953, on the vesting of estates in the State under that Act, the limit of twenty-five acres shall not apply to them, only in respect of any land so retained by them; (c) in the case of such portions of the district of Darjeeling as may be declared by notification by the State Government to be hilly portions, the limit of twenty-five acres shall not apply to a raiyat".
6. Words subs. for the words "shall be sold by the prescribed authority in the prescribed manner" by W.B. Act 50 of 1981.
7. Words subs. for the word "agriculture" by W.B. Act 50 of 1981.
8. Words ins. by W.B. Act 50 of 1981.
10. Sub-sec. (5) subs. by W.B. Act 50 of 1981, which was earlier as under: "(5) On the holding of a raiyat being sold as aforesaid, his ownership therein shall cease and the rights of the lessee, if any, shall terminate and the raiyat shall be entitled to receive the surplus sale proceeds after deducting the expenses for conducting the sale."

4A. Certain restrictions on rights of raiyats in Sadar, Kalimpong and Kurseong sub-divisions of Darjeeling district

:-

1

(1) In the Sadar sub-division, Kalimpong sub-division and Kurseong sub-division of the district of Darjeeling, the ²[Collector] of the district may, from time to time, give directions regarding the form of cultivation to be adopted by a raiyat in respect of his ³[plot of land] or prohibiting a raiyat from cutting more than one tree from his ³[plot of land] except with the previous permission in writing of the ²[Collector] or such other officer as may be authorised by the

State Government in this behalf :

6 Provided that in giving directions as aforesaid, the Collector shall follow such procedure as may be prescribed.

(2) For contravention of any of the directions given under sub-section (1), the **2**[Collector] may, after giving the defaulting raiyat an opportunity to show cause against the action proposed to be taken, impose upon him, by order, a fine not exceeding **8**[one thousand rupees] which, if not duly paid, shall be recoverable as a public demand.

(3) An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the Commissioner against any order passed by the **2** [Collector] under sub-section (2) and the decision of the Commissioner shall be final.

1. Sec. 4A ins. by W.B. Act 18 of 1965.

2. Word subs. for the words "Deputy Commissioner" by W.B. Act 31 of 2000.

3. Words subs. for the word "holding" by W.B. Act 31 of 2000.

6. Proviso ins. by W.B. Act 31 2000.

8. Words subs. for the words "one hundred rupees" by W.B. Act 31 of 2000.

4B. Maintenance and preservation of land :-

1 Every raiyat holding any land shall maintain and preserve such land in such manner that its area is not diminished or its character is not changed or the land is not converted for any purpose other than the purpose for which it was settled or previously held except with the previous order in writing of the Collector under section 4C:

Provided that any raiyat may plant and grow trees on any land held by him within the ceiling area applicable to him and to his family without any previous order under section 4C, if such land is not cultivated by bargadar:

2 Povided further that without prejudice to the provisions of Chapter IIB of the Act the provisions of this section shall not apply to the diminution in area or the change of character of any land or the conversion of any land for any purpose other than the purpose for which it was settled or previously held, if such diminution or change of character or conversion was made in accordance with the provisions of any law for the time being force.

1. Sec. 4B first ins. by W.B. Act 33 of 1974. then subs, by W.B. Act

50 of 1981. Previous sec. 4B was as under: "4B. Maintenance and preservation of orchard. (1) Every raiyat owning any orchard shall maintain and preserve the orchard in such manner that its area is not diminished or its character is not changed, except with the previous permission in writing of the Board of Revenue. (2) If any raiyat commits a breach of the provisions of sub-section (1), the prescribed authority may, after giving in the prescribed manner an opportunity to the raiyat to show cause against the action proposed to be taken, impose upon him a fine not exceeding two thousand rupees and where the offence is a continuing one, a further fine not exceeding two hundred rupees for each day during which the breach continues and the fine, if not duly paid, shall be recoverable as a public demand. (3) An appeal shall lie from any order made under sub-section (2) in accordance with the provisions of sections 54 and 55."

2. Proviso ins. by W.B. Act 35 of 1986.

4C. Permission for change of area, character or use of land

:-

1

(1) A raiyat holding any land may apply to the Collector for change of area or character of such land or for conversion of the same for any purpose other than the purpose for which it was settled or was being previously used or for alteration in the mode of use of such land,

2 Explanation. For the purposes of this sub-section, mode of use of land may be residential, commercial, industrial, agriculture plantation of tea, pisciculture, forestry, sericulture, horticulture, public utilities or other use of land.

(2) On receipt of such application, the Collector may, after making such inquiry as may be prescribed and after giving the applicant or the persons interested in such land or affected in any way an opportunity of being heard, by order in writing either reject the application or direct such change, conversion or alteration, as the case may be, on such terms and conditions as may be prescribed.

(3) Every order under sub-section (2) directing change, conversion or alteration shall specify the date from which such change, conversion or alteration shall take effect.

(4) A copy of the order passed by the Collector directing change, conversion or alteration, if any, under sub-section (2), or in an appeal therefrom shall be forwarded to the Revenue Officer referred to in section 50 or section 51, as the case may be, and such

Revenue Officer shall incorporate in the record-of-rights changes effected by such order and revise the record-of-rights in accordance with such order.

(5) If the Collector is satisfied that any land is being converted for any purpose other than the purpose for which it was settled or was being previously held, or attempts are being made to effect alteration in the mode of use of such land or change of the area or character of such land, he may, by order, restrain the raiyat from such act.

1. Secs. 4C to 4E ins. by W.B. Act 50 of 1981.
2. 'Expln.' ins. by W.B. Act 31 of 2000.

4D. Offences and penalties :-

1

(1) Any change, conversion or alteration in the area, character or mode of use of any land, except in accordance with the provisions of section 4C, or any violation of the order of the Collector under sub-section (5) of section 4C, ²[shall be a cognizable and non-bailable offence and shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to fifty thousand rupees or with both]: Provided that no prosecution shall lie for an offence under this sub-section in a case where an action has already been taken by the prescribed authority under sub-section (4) of section 4: ³Provided further that no prosecution shall lie for any diminution in area or change of character of any land or any conversion in the use of any land if any diminution or change of character or conversion was made in accordance with the provisions of any law for the time being in force.

(2) ³ * * * * *

1. Secs. 4C to 4E ins. by W.B. Act 50 of 1981.
2. Words subs. for the words "shall be an offence punishable with imprisonment which may extend to three years or with fine which may extend to one thousand rupees or with both:" by W.B. Act 31 of 2000.
3. Sub-sec. (2) om. by W.B. Act 31 of 2000, which was as under: "
(2) No court shall take cognizance of any offence punishable under subsection (1) except on a complaint in writing made by the Collector or by an officer authorised by him in that behalf."

4E. Bar to registration :-

1 No transfer (including sales in execution of a decree of a civil

court or for recovery of arrears of land revenue) of any land or interest in such land within an urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976, or within any part of such urban agglomeration, as may be specified by the State Government by notification in the Official Gazette and used mainly for agriculture or as an orchard, without any order in writing of the Collector shall be valid and no registering authority shall, notwithstanding the provisions of the Registration Act, 1908, register a document of such transfer unless order of the Collector in writing permitting such transfer is produced :

Provided that an application made to the Collector for permission for any such transfer made of one's own motion or for registration of a transfer in execution of a decree of a civil court shall be disposed of by the Collector within sixty days of the filing of the application failing which it shall be within the rights of the registering authority to register the document of the transfer.

1. Secs. 4C to 4E ins. by W.B. Act 50 of 1981.

5. Transferability of 39[plot of land] of a raiyat :-

(1) A transfer of the ¹[plot of land] of a raiyat or a share or portion thereof shall be made by an instrument which must be registered and the registering officer shall not accept for registration any such instrument unless

(a) the sale price, or where there is no sale price, the value of the [plot of land] or portion or share thereof transferred, is stated therein; ²* * * * *

(b) there is tendered along with it,

(i) a notice giving the particulars of the transfer in the prescribed form for transmission to the prescribed authority;

(ii) such notices and process fees as may be required by subsection (4),

41(c) the purpose for which the land shall be used by the transferee is stated therein; and

³(d) such purpose for use of the land by the transferee is consistent with the purpose for which the land was settled or was being used and is not contrary to the provisions of section 4B, section 4C, section 4E or section 49.

3Explanation. The purposes under clauses (c) and (d) shall include agriculture, horticulture, animal husbandry, trade, manufacture, entertainment, recreation, sport and such other purposes.

(2) In case of bequest of such **5**[plot of land] or portion or share thereof, no court shall grant Probate or Letters of Administration until the applicant files in the prescribed form a notice giving particulars of the bequest together with the prescribed process fee for transmission to the prescribed authority.

(3) No Court or Revenue Officer shall confirm the sale of such a **4**[plot of land] or portion or share thereof put to sale in execution of a decree or certificate and no Court shall make a decree or order absolute for foreclosure of a mortgage of such a **4**[plot of land] or portion or share thereof, until the purchaser or the mortgagee, as the case may be, files a notice or notices similar to, and deposits process fees of the same amount as that referred to in sub-section (1).

(4) If the transfer of a portion or share of such a **4**[plot of land] be one to which the provisions of section 8 apply, there shall be filed by the transferor or transferee notices giving particulars of the transfer in the prescribed form together with the process fees prescribed for the service thereof on all the co-sharers of the said **4**[plot of land] who are not parties to the transfer and for affixing a copy thereof in the office of the registering officer or the Court house or the office of the Revenue Officer, as the case may be, as well as for affixing a copy on the **4**[plot of land].

(5) The Court, the Revenue Officer or the registering officer, as the case may be, shall transmit the notice to the authority referred to in sub-clause (i) of clause (b) of sub-section (1) who shall serve the notices on the [plot of land] and in the Court house or in the office of the Revenue Officer, or of the registering officer, as the case may be.

Explanation. In this section

(a) "transferor", **11**[, transferee], "purchaser" and "mortgagee" include their successors-in-interest, and

(b) "transfer" does not include **12** [simple or usufructuary mortgage or mortgage by deposit of title deeds].

1. Words subs. for the word "holding" by W.B. Act 31 of 2000.
2. Word "and" om. by W.B. Act 50 of 1981.
3. Clauses (c), (d) and the 'Explan.' ins. by W.B. Act 50 of 1981.
5. Words subs. for the word "holding" by W.B. Act 31 of 2000.
11. Word. ins. by W.B. Act 50 of 1981.
12. Words subs. for the words "partition or simple or usufructuary mortgage" by W.B. Act 12 of 1972.

6. . :-

1 *****

1. Sec. 6 om. by W.B. Act 12 of 1972, which was as under: "6. Limitation on transfer. (1) The State Government shall be entitled subject to the provisions of section 8 to take over, by order made in this behalf, any land pwned by a raiyat, whether as a result of transfer or otherwise, in excess of the limits prescribed by sub-section (3) of section 4: Provided that the raiyat shall have the option of choosing the land to be retained by him within such limits. (2) In all cases where the State Government takes over any land under sub-section (1), there shall be paid to the raiyat as compensation an amount equal to the market value of the interest of the transferor in the land on the date of the transfer."

7. Limitation on mortgage of raiyati 45[plots of land] :-

(1) A mortgage by a raiyat of his ¹[plot of land] or any share thereof other than

(a) a simple mortgage, or

(b) a usufructuary mortgage for a period not exceeding fifteen years, ²[or]

³ (c) a mortgage by deposit of title deeds in favour of

(i) a scheduled bank as defined in the Reserve Bank of India Act, 1934, or

(ii) a co-operative land mortgage bank registered or deemed to be registered under any law for the time being in force, or

(iii) a public financial institution referred to in section 4A of the Companies Act, 1956, or

(iv) a corporation owned or controlled by the Central Government or the State Government or by both the Central Government and the State Government, or

(v) the International Finance Corporation established under the Agreement as defined in clause (a) of section 2 of the International

Finance Corporation (Status, Immunities and Privileges) Act, 1958,
or

(vi) such other financial institution, by whatever name called, established or registered under any law for the time being in force, as the State Government or the Central Government may, by notification in the Official Gazette, specify, for the purpose of obtaining loan or financial assistance [including debenture as defined in clause (12) of section 2 of the Companies Act, 1956] for the development of the land comprised in the holding of such raiyat or for the improvement of any agricultural production (including horticulture or fishery) or for the development or improvement of any plantation or for the establishment or development of any industry, livestock breeding, dairy, poultry farming, commercial unit, educational centre, health centre, public recreation centre or research centre upon such land or for the promotion and holding of sports or cultural or philanthropical activity upon such land or for the construction of any housing estate for bonafide residential purpose or any building for providing accommodation for any office upon such land or for such other activity as the State Government may, by notification in the Official Gazette, specify, shall be void.

(2) A usufructuary mortgage referred to in clause (b) of sub-section (1) may be redeemed at any time before the expiry of the period.

1. Words subs. for the word "holding" by W.B. Act 31 of 2000.

2. Word ins. by W.B. Act 12 of 1972.

3. Clause (c) first ins. by W.B. Act 12 of 1972, then subs, by W.B. Act 24 of 1990. Previous clause (c) was as under: "(c) a mortgage by deposit of title deeds in favour of a scheduled bank, a co-operative land mortgage bank or a corporation, owned or controlled by the Central or State Government, or by both, for the purpose of obtaining loan for the development of land or improvement of agricultural production."

8. Right of purchase by co-sharer or contiguous tenant :-

(1) If a portion or share of a ¹[plot of land of a raiyat] is transferred to any person ²[co-sharer of a raiyat in the plot of land], ³[the ⁴(bargadar in the plot of land) may, within three months of the date of such transfer, or] any ⁵[co-sharer of a raiyat in the plot of land] may, within three months of the service of the notice given under sub-section (5) of section 5, or any raiyat possessing land ⁶[adjoining such plot of land] may, within four months of the date of such transfer, apply to the ⁷[Munsif having

territorial jurisdiction] for transfer of the said portion or **8**[share of the plot of land] to him, subject to the limit mentioned in **9**[section 14M], on deposit of the consideration money together with a further sum of ten per cent, of that amount:

10 Provided that if the **11**[bargadar in the plot of land,] a **12**[co-sharer of a raiyat in a plot of land] and a raiyat possessing land **13**[adjoining such plot of land] apply for such transfer, the bargadar shall have the prior right to have such portion or **14**[share of the plot of land] transferred to him, and in such a case, the deposit made by others shall be refunded to them:

15[Provided further that where the bargadar does not apply for such transfer and] a **12**[co-sharer of a raiyat in a plot of land] and a raiyat possessing land **13**[adjoining such plot of land] both apply for such transfer, the former shall have the prior right to have such portion or **14**[share of the plot of land] transferred to him, and in such a case, the deposit made by the latter shall be refunded to him:

19[Provided also] that as amongst raiyats possessing lands **65**[adjoining

(2) Nothing in this section shall apply to

(a) a transfer by exchange or by partition, or

(b) a transfer by bequest or gift, **20**[or hebabilewaz], or

(c) a **21*** * * * mortgage mentioned in section 7, or

(d) a transfer for charitable or religious purposes or both without reservation of any pecuniary benefit **22**[for any individual, or] **69**(e) a transfer of land in favour of a bargadar, in respect of such land if after such transfer, the transferee holds as a raiyat land not exceeding one acre (or 0.4047 hecta are) in area in the aggregate.

23Explanation. All orders passed and the consequences thereof under sections 8, 9 and 10 shall be subject to the provisions of Chapter IIB.

24 (3) Every application pending before a Revenue Officer at the commencement of section 7 of the West Bengal Land Reforms (Amendment) Act, 1972, shall, on such commencement, stand

transferred to, and be disposed of by, the Munsif having jurisdiction in relation to the area in which the land is situated and on such transfer every such application shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act, as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

1. Words subs, for the words "holding of a raiyat" by W.B. Act 31 of 2000.
2. Words subs. for the words "co-sharer in the holding" by W.B. Act 31 of 2000.
3. Words ins. by W.B. Act 50 of 1981.
4. Words subs. for the words "bargadar in the holding" by W.B. Act 31 of 2000.
5. Words subs. for the words "co-sharer raiyat of the holding" by W.B. Act 31 of 2000.
6. Words subs. for the word "adjoining such holding" by W.B. Act 31 of 2000.
7. Words subs. for the words "Revenue Officer specially empowered by the State Government in this behalf by W.B. Act 12 of 1972.
8. Words subs. for the words "share of the holding" by W.B. Act 31 of 2000.
9. Word, figures and letter subs. for the words, figures and brackets "subsection (3) of section 4" by W.B. Act 12 of 1972.
10. Proviso ins. by W.B. Act 50 of 1981.
11. Words subs. for the words "bargadar in the holding," by W.B. Act 31 of 2000.
12. Words subs. for the words "co-sharer raiyat" by W.B. Act 31 of 2000.
13. Words subs. for the words "adjoining such holding" by W.B. Act 31 of 2000.
14. Words subs. for the words "share of the holding" by W.B. Act 31 of 2000.
15. Words subs. for the words "Provided that if by W.B Act 50 of 1981.
19. Words subs. for the words "Provided further" by W.B. Act 50 of 1981.
20. Words ins. by W.B. Act 12 of 1972.
21. Word "usufructuary om. by W.B. Act 12 of 1972.
22. Words subs. for the words "for any individual." by W.B. Act 50 of 1981.
23. 'Expln.' ins. by W.B. Act 50 of 1981.
24. Sub-sec. (3) ins. by W.B. Act 12 of 1972.

9. [Munsif] to allow the application and apportion lands in certain cases :-

1

- (1) On the deposit mentioned in sub-section (1) of section being

made, the ¹[Munsif] shall give notice of the application to the transferee, and shall also cause a notice to be affixed on the land for the information of persons interested. On such notice being served, the transferee or any person interested may appear within the time specified in the notice and prove the consideration money paid for the transfer and other sums, if any, properly paid by him in respect of the lands including any sum paid for annulling encumbrances created prior to the date of transfer, and rent or revenue, cesses or taxes for any period. The ¹[Munsif] may after such enquiry as he considers necessary direct the applicant to deposit such further sum, if any, within the time specified by him and on such sum being deposited, he shall make an order that the amount of the consideration money together with such other sums as are proved to have been paid by the transferee or the person interested plus ten per cent, of the consideration money be paid to the transferee or the person interested out of the money in deposit, the remainder, if any, being refunded to the applicant. The ¹[Munsif] shall then make a further order that the portion or ⁵[share of the plot of land] be transferred to the applicant and on such order being made, the portion or ²[share of the plot of land] shall vest in the applicant.

(2) When any person acquires the right, title and interest of the transferee in ⁷[such plot of land] by succession or otherwise, the right, title and interest acquired by him shall be subject to the right conferred by subsection (1) of section 8 on a ⁸[co-sharer of a raiyat in a plot of land] or a raiyat possessing ⁹[land adjoining the plot of land or bargadar.]

(3) In making an order under sub-section (1) in favour of more than one ¹⁰[co-sharer of a raiyat in a plot of land or raiyat holding adjoining land or bargadar,] the ¹¹[Munsif] may apportion the portion or ¹²[share of the plot of land] in such manner and on such terms as he deems equitable.

(4) Where any portion or share of a ¹³[plot of land] is transferred to the applicant under sub-section (1), such applicant shall be liable to pay all arrears of revenue in respect of such portion or share of the ⁹[plot of land] that may be outstanding on the date of the order.

(5) The ⁷[Munsif] shall send a copy of his order as modified on

appeal, if any, under sub-section (6) to the prescribed authority for correction of the record-of-rights.

(6) Any person aggrieved by an order of the ¹⁶[Munsif] under this section may appeal to the ⁸²[District Judge] having jurisdiction over the area in which the land is situated, within thirty days from the date of such order and the ¹⁷[District Judge] shall send a copy of his order to the ¹⁰[Munsif]. The fees to be paid by the parties and the procedure to be followed by the ¹¹[District Judge] shall be such as may be prescribed.

20 (7) Every appeal pending before an Additional District Magistrate at the commencement of section 8 of the West Bengal Land Reforms (Amendment) Act, 1972, shall, on such commencement, stand transferred to, and be disposed of by, the District Judge having jurisdiction in relation to the area in which the land is situated and on such transfer, every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act, as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

1. Word subs. for the words "Revenue Officer" by W.B. Act 12 of 1972.

5. Words subs. for the words "share of the holding" by W.B. Act 31 of 2000.

7. Words subs. for the words "such holding" by W.B. Act 31 of 2000.

8. Words subs. for the words "co-sharer raiyat" by W.B. Act 31 of 2000.

9. Words subs. for the words "land adjoining the holding." by W.B. Act 31 of 2000.

10. Words subs. for the words "co-sharer raiyat or raiyat holding adjoining land," by W.B. Act 31 of 2000.

11. Word subs. for the words "Revenue Officer" by W.B. Act 12 of 1972.

12. Words subs. for the words "share of the holding" by W.B. Act 31 of 2000.

13. Words subs. for the word "holding" by W.B. Act 31 of 2000.

16. Word subs. for the words "Revenue Officer" by W.B. Act 12 of 1972.

17. Words subs. for the word "Munsif by W.B. Act 12 of 1972.

20. Sub-sec. (7) ins. by W.B. Act 12 of 1972.

10. Consequences of an order for transfer :-

On an order under section 9 being made

(a) the right, title and interest of the raiyat and of the transferee or of the person mentioned in sub-section (2) of section 9 who acquires any right, title and interest in the ¹[plot of land] shall vest in the raiyat whose application for transfer has been allowed by the Revenue Officer or by the Munsif ² [or, after the commencement of section 8 of the West Bengal Land Reforms (Amendment) Act, 1971, by the Additional District Magistrate, or, after the

Provided that the transferee or the person mentioned in subsection (2) of section 9 shall have the right to take away the crops which he might have grown on the land before the date of the order;

(b) the raiyat whose application has been so allowed shall be liable for any revenue accruing from the date of the order.

1. Words subs, for the word "holding" by W.B. Act 31 of 2000.
2. Words, figures and brackets ins. by W.B. Act 12 of 1972.

11. . :-

1 [****]

1. Sec. 11 om. by W.B. Act 31 of 2000, which was as under: "11. Diluviated lands. (1) If the holding of a raiyat or a portion of it is lost by diluvion, the revenue of the holding shall, on application made by the raiyat in the prescribed form to the Revenue Officer, be remitted or abated by an amount which, in the opinion of the Revenue Officer, is fair. (2) The right, title and interest of the raiyat shall subsist in such holding or portion thereof during the period of loss by diluvion not exceeding twenty years and the raiyat shall on its re-appearance at any time within that period have the right to possession thereof and be liable to pay such revenue as in the opinion of the Revenue Officer is fair."

12. Land gained by recess of river or sea :-

¹Any land gained by gradual accession to ²[a plot of land,] whether from the recess of a river or of the sea, shall vest in the State Government and the raiyat who owns ³ [the lot of land] shall not be entitled to retain such land as an accretion thereto.

1. Sec. 12 subs, by W.B. Act 18 of 1965, which was earlier as under: "12. Right in land gained by recess of river or sea. When any land has been gained by gradual accession to any holding whether from the recess of a river or of the sea, it shall form an addition thereto and the raiyat who owns the holding shall be liable to pay such revenue on re-assessment as may be determined by the Revenue Officer: Provided that a raiyat shall be entitled to retain only so much of land so gained which together with his other lands excluding homestead does not exceed twenty-five acres, and

the remainder, if any, of the land gained by accession shall vest in the State Government free from all encumbrances."

2. Words subs. for the words "a holding" by W.B. Act 31 of 2000.

3. Words subs. for the words "the holding" by W.B. Act 31 of 2000.

13. . :-

1 [*****]

1. Sec. 12 subs, by W.B. Act 18 of 1965, which was earlier as under: "12. Right in land gained by recess of river or sea. When any land has been gained by gradual accession to any holding whether from the recess of a river or of the sea, it shall form an addition thereto and the raiyat who owns the holding shall be liable to pay such revenue on re-assessment as may be determined by the Revenue Officer: Provided that a raiyat shall be entitled to retain only so much of land so gained which together with his other lands excluding homestead does not exceed twenty-five acres, and the remainder, if any, of the land gained by accession shall vest in the State Government free from all encumbrances."

14. [Partition of plot of land among co-sharers of a raiyat in plot of land.] :-

1

(1) Partition of a ²[plot of land] among ³[co-sharers of a raiyat owning it] shall be made either by

(a) a registered instrument; or

(b) a decree or order of a court.

(2) When partition is effected by an instrument, the registering officer shall not accept for registration any such instrument unless there is tendered along with it a notice, giving the particulars of the ²[plot of land] and the area of each share, and such process fee as may be prescribed, for transmission to the prescribed authority.

(3) If as a result of partition one or more shares comprise an area less than the standard area

(a) the prescribed authority in a case where partition is effected by a registered instrument, or

(b) the court passing the decree or order for partition, shall recast the shares, excluding the homesteads of the co-sharers, so that no share is less than the standard area, and sell such shares, or when the ²[plot of land] comprises an area which cannot be partitioned into two or more shares, each comprising not less than the

standard area, sell the entire ²[plot of land] to the highest bidder or bidders among the co-sharers, or failing them to other persons, and the sale proceeds shall, after deducting the expenses for conducting the sale, be paid to the co-sharers in accordance with their shares in the ²[plot of land] partitioned, excluding the homesteads.

(4) If the ⁸[plot of land] or any share or shares thereof cannot be sold as aforesaid, the prescribed authority or the court shall report the case to the State Government and the State Government shall, by order made in this behalf, take over such ⁴[plot of land] or share or shares and shall place at the disposal of the prescribed authority or the court, as the case may be, the market value thereof for payment to the co-sharers in the manner indicated in Sub-section (3).

(5) For the purpose of preventing fragmentation of ¹⁰[plots of land] as a result of partition the State Government may be order made in this behalf ¹¹* * * * production ¹²[or in the public interest], as the standard area, and different standard areas may be specified for different localities or for different classes of land.

13(6) Notwithstanding anything contained in any other law for the time being in force or in any agreement or any custom or usage or any decree, judgement or award of any court, no partition amongst ¹⁴ [co-sharers of a raiyat in a plot of land] and co-parceners of a Hindu Undivided family governed or claiming to be governed by the Mitaksharu School of Hindu Law shall have any force unless such partition is made by registered instrument or by a decree or order of a Court and is effected by metes and bounds; and both the conditions having been fulfilled, any such partition shall be deemed to have come into force from the date of registration of the deed of partition or the date of final decree or Order of a Court, as the case may be, or from the date of effecting partition by metes and bounds, whichever is later.

1. Words subs, for the words "Partition of holding among co-sharer raiyats" by W.B. Act 31 of 2000.

2. Words subs, for the word "holding" by W.B. Act 31 of 2000.

3. Words subs, for the words "Co-sharer raiyats owning it" by W.B. Act 31 of 2000.

8. Words subs, for the word "holding" by W.B. Act 31 of 2000.

10. Words subs, for the word "holdings" by W.B. Act 31 of 2000.

11. Word "agricultural" om. by W.B. Act 50 of 1981.

12. Words ins. by W.B. Act 50 of 1981.

13. Sub-sec. (6) ins. by W.B. Act 50 of 1981.

14. Words subs, for the words "co-sharer raiyats" by W.B. Act 31 of 2000.

CHAPTER 2A

Restrictions on alienation of land by Scheduled Tribes

14A. Provisions of Chapter IIA to override other provisions of this Act :-

The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act.

14B. Restrictions on alienation of land by Scheduled Tribes

:-

Save as provided in section 14C, any transfer by a raiyat belonging to a Scheduled Tribe of his ¹ [plot of land] or part thereof shall be void.

1. Words subs, for the word "holding" by W.B. Act 31 of 2000.

14C. Modes of transfer of land by Scheduled Tribes :-

(1) A raiyat belonging to a Scheduled Tribe may transfer his ¹[plot of land] or part thereof in any one of the following ways, namely :

(a) by a complete usufructuary mortgage entered into with a person belonging ²[to a Scheduled Tribe] for a period not exceeding seven years;

(b) by sale or gift to the Government for a public or charitable purpose;

(c) by simple mortgage to the Government or to a registered Co-operative Society;

³(cc) by simple mortgage or mortgage by deposit of title deeds in favour of a scheduled bank, a co-operative land mortgage bank or a corporation, owned or controlled by the Central or 'State Government, or by both, for the development of land or improvement of agricultural production;

⁴(d) by gift or will to a person belonging to a Scheduled Tribe;

⁵(e) by sale or exchange in favour of any person belonging to a Scheduled Tribe: Provided that any such raiyat may, with the previous permission, in writing, of the Revenue Officer, transfer by

sale his [plot of land] or any part thereof to a person not belonging to any Scheduled Tribe:

Provided further that no such permission shall be granted by the Revenue Officer unless he is satisfied that no purchaser belonging to a Scheduled Tribe is willing to pay the fair market price of the [plot of land] or any part thereof and that the proposed sale is intended to be made for one or more of the following purposes, namely:

(a) for the improvement of any other part of the [plot of land], or

(b) for investment, or

(c) for such other purposes as may be prescribed.

(2)⁶ * * * *

(3) A complete usufructuary mortgage referred to in sub-section (1) may be redeemed at any time before the expiry of the term.

(4) A mortgagor under a complete usufructuary mortgage intending to redeem such mortgage before the expiry of its term or any person acting on his behalf, may make an application for redemption in such form and containing such particulars as may be prescribed to the Revenue Officer. On receipt of such application the Revenue Officer shall after service of notice to the mortgagee make an enquiry in the prescribed manner and pass a preliminary order declaring the amount due under such mortgage to the mortgagee at the date of such order and fixing a date for payment of such amount by the mortgagor. If the mortgagor pays such amount by the date so fixed the Revenue Officer shall make a final order directing the mortgagee to restore possession of the mortgaged property and to deliver up the mortgage-deed, to the mortgagor.

(5) A final order made under sub-section (4) shall be executed by the Revenue Officer in such manner as may be prescribed.

Explanation. In this section "complete usufructuary mortgage" means a transfer by a raiyat of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage.

1. Words subs, for the word "holding" by W.B. Act 31 of 2000.
2. Words subs, for the words "to the same Scheduled Tirbe to which the transferor belongs" by W.B. Act 12 of 1972.
3. Clause (cc) ins. by W.B. Act 12 of 1972.
4. Clause (d) subs, by W.B. Act 28 of 1972, which was earlier as under: "(d) by gift or will to a person belonging to the same Scheudled Tribe to which the transferor belongs, when such transfer is made with the previous permission, in writing, of the Revenue Officer containing the terms of the transfer;".
5. Clause (e) subs, by W.B. Act 12 of 1972, which was earlier as under: "(e) by a complete usufructuary mortgage for a term not exceeding seven years to a person other than a person referred to in clause (a) or by sale or exchange in favour of any person when such transfer in made with the previous permissiion, in writing, of the Revenue Officer containing the terms of the transfer.".
6. Sub-sec. (2) om. by W.B. Act 12 of 1972, which was as under: "(2) In the case of sale to a person not belonging to the Scheduled Tribe to which the transferor belongs, the Revenue Officer shall not give the permission referred to in clause (e) of sub-section (1) unless he is satisfied that a purchaser belonging to such Scheduled Tribe, who is willing to pay the fair market price for the land is not available. In the case of such a purchaser being available, the Revenue Officer shall, by an order in writing, direct that the holding be sold to such person on payment of the price fixed by him within such time, not exceeding six months, as may be specified in the order. On the failure of such person to tender the price so fixed within the time allowed, the Revenue Officer may, on an application in this behalf, accord written permission for the sale of the holding to any other person at a price not lower than the price so fixed.".

14D. Transfer in contravention of Chapter IIA shall not be valid unless registered :-

1

(1) No transfer of any land or any interest in such land by a raiyat belonging to a Scheduled Tribe shall be valid unless made by a registered instrument.

(2) Notwithstanding anything contained in the Registration Act, 1908 or in any other law for the time being in force, no instrument of transfer or dealing with land or interest in such land by a raiyat belonging to the Scheduled Tribe made in contravention of the provisions of this Chapter shall be recognised as valid by any court, officer or authority exercising civil, criminal or revenue jurisdiction and no registering officer shall register any such instrument unless he is satisfied that the instrument does not contravene any of the provisions of this Chapter.

(3) If, in course of registration of any instrument referred to in subsection (2) or in any proceeding relating to the registration of such instrument or in any proceeding before any civil, criminal or revenue court, any question arises as to whether the raiyat executing such instrument belongs to the Scheduled Tribe or as to whether such instrument has been made in contravention of the provisions of this Chapter, the registering officer or other officer or authority exercising powers under the Registration Act, 1908 or the civil, criminal or revenue Court before whom such question arises, shall refer such question to the Revenue Officer referred to in section 14C and shall give effect to the decision of the Revenue Officer.

1. Sec 14D first ins. by W.B. Act 18 of 1965, then subs, by W.B. Act 50 of 1981. Previous sec. 14D was as under: "14D. No registration or recognition of transfers in contravention of section 14C. (1) No transfer by a raiyat belonging to a Scheduled Tribe shall be valid unless made by a registered instrument. (2) No instrument of transfer made in contravention of section 14C shall be registered or in any way recognised as valid in any Court exercising civil, criminal or revenue jurisdiction."

14E. Power to Revenue Officer to set aside improper transfers by raiyat :-

1

(1) If a transfer of a ²[plot of land] or any portion thereof is made by a raiyat belonging to a Scheduled Tribe in contravention of the provisions of section 14C, ³[or if the permission for the transfer is found, after an inquiry in the prescribed manner, to have been obtained by misrepresentation or fraud] or if in the case of a complete usufructuary mortgage referred to in clause (a) 12 * * * of sub-section (1) of section 14C, the ' transferee has continued or is in possession for more than seven years from the date of the transfer, the Revenue Officer may, of his own motion or on an application made in that behalf, and after giving the transferee an opportunity of being heard, by an order in writing, ⁴[annul the transfer, where necessary, and] eject the transferee from such holding or part thereof: Provided that the transferee whom it is proposed to eject has not been in continuous possession for ⁵[thirty years] under the transfer made in contravention of section 14C, or in the case of a complete usufructuary mortgage referred to in clause (a) 12* * * of sub-section (1) of section 14C, for ⁵[thirty years] from the expiry of the ⁷[period of seven years,

notwithstanding anything contained in the Limitation Act, 1963].

(2) When the Revenue Officer has passed any order under sub-section (1), he shall restore the transferred holding or part thereof to the transferor or his successor-in-interest.

8 (3) For the purpose of restoration of possession of any land and evicting any person in actual occupation of such land under sub-section (2), any such Revenue Officer may use such force as may be required for evicting the person in actual occupation of such land and may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station having jurisdiction or to any police officer superior in rank to such officer-in-charge, and on receipt of such written requisition, the police officer concerned shall render all necessary lawful assistance for enforcing delivery of possession of such land:

Provided that the provisions of this sub-section shall not be applicable to any person not belonging to the Scheduled Tribe, if he has been owning,

1. Chapter IIA containing secs. 14A to 14I ins. by W.B. Act 18 of 1965.
2. Words subs, for the word "holding" by W.B. Act 31 of 2000.
3. Words ins. by W.B. Act 12 of 1972.
4. Words ins. by W.B. Act 12 of 1972.
5. Words subs, for the words "twelve years" by W.B. Act 50 of 1981.
7. Words and figures subs, for the words "period of seven years" by W.B. Act 50 of 1981.
8. Sub-sec. (3) ins. by W.B. Act 50 of 1981.

14F. Restriction on the sale of raiyats [plot of land] or any portion thereof :-

123

(1) No decree or order shall be passed by any court for the sale of the ²[plot of land] or any portion thereof, of a raiyat belonging to a Scheduled Tribe nor shall any such ²[plot of land] be sold in execution of any decree or order.

3 (2) Notwithstanding anything contained in the Code of Civil Procedure, 1908 and the Indian Contract Act, 1872, no decree or order relating to any land or interest in such land shall be passed by any court against a raiyat belonging to a Scheduled Tribe on the basis of any consent, agreement or compromise. Any such decree

or order passed in contravention of this sub-section shall be void.

1. Chapter IIA containing secs. 14A to 141 ins. by W.B. Act 18 of 1965.

2. Words subs, for the word "holding" by W.B. Act 31 of 2000.

3. Sec. 14F renumbered as sub-sec. (1) of that sec. and sub-sec. (2) ins. by W.B. Act 50 of 1981.

14FF. Benanii transaction or instrument to be void :-

1

(1) Notwithstanding anything contained in the Transfer of Property Act, 1882 or in any other law for the time being in force, any benami transaction or instrument relating to any land or any interest therein showing the name of any person belonging to a Scheduled Tribe as the ostensible owner shall be void for all purposes.

(2) No Court shall entertain any suit to enforce any right in respect of any such land or interest in such land against a person belonging to a Scheduled Tribe by or on behalf of a person claiming to be the real owner of such land or interest therein.

1. Sec. 14FF ins. by W.B. Act 50 of 1981.

14G. Power to the Revenue Officer to settle or sell [plot of land] for realization of certificate dues :-

12

(1) When a certificate is filed for the recovery of an arrear of revenue or any other public demand recoverable under the Bengal Public Demands Recovery Act, 1913, in respect of the ²[plot of land] of a raiyat belonging to a Scheduled Tribe, the Certificate Officer shall, before a proclamation for sale of the ² [plot of land] is issued in execution of the certificate, refer the case to the Revenue Officer having jurisdiction who may, in his discretion,

(a) eject the defaulting raiyat from his [plot of land] and put another person belonging to a Scheduled Tribe in possession of the [plot of land] for a period not exceeding seven years on payment of the amount due in respect of the certificate by him; or

(b) sell the [plot of land] to a member of a Scheduled Tribe, if available, and, if not available, to any other person at a fair market price to be fixed by the Revenue Officer, not being less than the amount due in respect of the certificate: Provided that if the homestead of the defaulting raiyat is comprised in the [plot of land]

he shall not be ejected from such homestead under clause (a), nor shall such homestead be sold under clause (b).

(2)

(i) If the Revenue Officer puts any person in possession of the [plot of land] under clause (a) of sub-section (1) for any period, the amount paid by such person shall, at the end of such period, be deemed to have been satisfied in full, and the Revenue Officer shall then restore the [plot of land] to the defaulting raiyat;

(ii) if the Revenue Officer sells the [plot of land] under clause (b) of subsection (1), any amount that may remain out of the sale-proceeds after satisfaction of the amount due in respect of the certificate shall be paid to the defaulting raiyat.

1. Chapter IIA containing secs. 14A to 14I ins. by W.B. Act 18 of 1965.

2. Words subs. for the word "holding" by W.B. Act 31 of 2000.

14H. Appeal and revision :-

¹An appeal, if presented within thirty days from the date of the order appealed against, shall lie ²[to the Munsif having jurisdiction] from any order made under sub-section (4) of section ³[14C or section 14E] or section 14G and his order shall be final:

Provided that an application for revision or modification of the order passed by the ⁴ [Munsif on appeal shall lie to the District Judge] if made within sixty days from the date of the order:

Provided further that the provisions of section 5 of the Limitation Act, 1963, shall apply to an appeal under this section.

1. Chapter 11A containing secs. 14A to 14I ins. by W.B. Act 18 of 1965.

2. Words subs, for the word "to the Collector of the district" by W.B. Act 12 of 1972.

3. Words, figures and letters subs, for the figures and letter "14C" by W.B. Act 12 of 1972.

4. Words subs, for the words "Collector on appeal shall lie to the Commissioner" by W.B. Act 12 of 1972.

14HH. Setting aside of sale of land of a raiyat belonging to a Scheduled Tribe :-

¹ Notwithstanding anything to the contrary contained in the Code of Civil Procedure, 1908 or in any other law from the time being in force, every court exercising appellate or revisional jurisdiction

shall, either of its own motion or on an application made in this behalf, set aside the sale of land of a riyat belonging to a Scheduled Tribe or any portion of such land in execution of a decree in favour of a person not belonging to a Scheduled Tribe, notwithstanding the failure of the party to file any objection before the court which passed the decree or passed any order for execution of the decree.

1. Sec. 14HH ins. by W.B. Act 19 of 1986.

14I. Bar to suits :-

¹ No suit shall lie in any Civil Court to vary or set aside any order passed by the Revenue Officer in any proceeding under this Chapter except on the ground of fraud or want of jurisdiction.

1. Chapter IIA containing secs. 14A to 141 ins. by W.B. Act 18 of 1965.

CHAPTER 2B

Ceiling on [Land held by a Raiyat]

14J. Provisions of Chapter IIB to have effect :-

The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for the time being in force or in any custom, usage or contract (express or implied) or in any agreement, decree, order, decision or award of any court, tribunal or other authority:

Provided that nothing in this Chapter shall apply to any vacant land in an urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976.

14K. Definitions :-

¹In this Chapter,

(a) "ceiling area" means the extent of land which a raiyat shall be entitled to own;

(b) "charitable purpose" includes relief of the poor, medical relief or the advancement of education or of any other object of general public utility;

(c) "family", in relation to a raiyat, shall be deemed to consist of

(i) himself and his wife, minor sons, unmarried daughters, if any,

(ii) his unmarried adult son, if any, who does not hold any land as a raiyat,

(iii) his married adult son, if any, where neither such adult son nor the wife nor any minor son or unmarried daughter of such adult son holds any land as a raiyat,

(iv) widow of his predeceased son, if any, where neither such widow nor any minor son or unmarried daughter of such widow holds any land as a raiyat,

(v) minor son or unmarried daughter, if any, of his predeceased son, where the widow of such predeceased son is dead and any minor son or unmarried daughter of such predeceased son does not hold any land as a raiyat, but shall not include any other person.

Explanation I. For the purposes of this Chapter, an adult unmarried person shall include a man or woman who has been divorced and who has not remarried thereafter: Provided that where such divorced man or woman is the guardian of any minor son, or unmarried daughter, or both, he or she, together with such minor son or unmarried daughter, or both, shall be deemed to be a separate family.

Explanation II. References in this clause to wife, son or daughter shall, in relation to a raiyat who is a woman, be construed as references to the husband, son or daughter, respectively of such woman;

(d) "irrigated area" means an area specified as such by the State Government, by notification in the Official Gazette, being an area which is, or is in the opinion of the State Government capable of being, irrigated, at any time during the agricultural year commencing on the 1st day of Baisakh, 1377 B.S. ²[or thereafter, from any State canal irrigation project of 31(State power-driven deep tubewell or shallow tubewell or any other State irrigation project) or State river-life irrigation project];

(e) "orchard" means a compact area of land having fruit bearing trees grown thereon in such number that they preclude, or when fully grown would preclude, a substantial part of such land from being used for ³[any other] purpose;

⁴(ee) "Planning Area" shall have the same meaning as in the West Bengal Town and Country (Planning and Development) Act, 1979;

(f) "standard hectare" means,

(i) in relation to an agricultural land, an extent of land equivalent

to

(a) 1.00 hectare in an irrigated area,

(b) 1.40 hectare in any other area;

(ii) in relation to any land comprised in an orchard, an extent of land equivalent to 1.40 hectare;

5 (iii) in relation to any other land, an extent of land equivalent to 1.40 hectare.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

2. Words and brackets subs, for the words and brackets ", froiti any State canal irrigation project or State (power driven deep tubewell) irrigation project" by W.B. Act 33 of 1974.

3. Words subs, for the words "any agricultural" by W.B. Act 50 of 1981.

4. Clause (ee) ins. by W.B. Act 31 of 2000.

5. Sub-clause (iii) of clause (f) ins. by W.B. Act 35 of 1986.

14L. No raiyat to hold land in excess of the ceiling area :-

12 [Subject to the provisions of sub-section (3) of section 14Q, section 14Y and subsection (2) of section 14Z, on and from the commencement] of the, -

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

2. Words, figures, letters and brackets subs, for the words "On and from the commencement" by W.B. Act 24 of 1996. provisions of this Chapter, no raiyat shall be entitled to own, in the aggregate, any land in excess of the ceiling area applicable to him under section 14M.

14M. Ceiling area :-

1

(1) The ceiling area shall be,

(a) in the case of a raiyat, who is an adult unmarried person, 2.50 standard hectares;

(b) in the case of a raiyat, who is the sole surviving member of a family, 2.50 standard hectares;

(c) in the case of a raiyat having a family consisting of two or more, but not more than five members, 5.00 standard hectares;

(d) in the case of a raiyat having a family consisting of more than

five members, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, to, however, that the aggregate of the ceiling area for such raiyat shall not, in any case, exceed 7.00 standard hectares;

(e) in the case of any other raiyat, 7.00 standard hectares.

(2) Notwithstanding anything contained in sub-section (1), where, in the family of a raiyat, there are more raiyats than one, the ceiling area for the raiyat, together with the ceiling area of all the other raiyats in the family shall not, in any case, exceed,

(a) where the number of members of such family does not exceed five, 5.00 standard hectares;

(b) where such number exceeds five, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area shall not, in any case, exceed 7.00 standard hectares.

(3) For the purposes of sub-section (2), all the lands owned individually by the members of a family or jointly by some or all the members of such family shall be deemed to be owned by the raiyats in the family.

(4) In determining the extent of land owned by the raiyats in a family or the sole surviving members of a family or an adult unmarried person, the share of such raiyat or raiyats, or such sole surviving member, or such adult unmarried person, as the case may be, in the lands owned by a cooperative society, company, co-operative farming society, Hindu undivided family or a firm shall be taken into account.

Explanation. For the purposes of this sub-section, the share of a raiyat in a family or the sole surviving member of a family or an adult unmarried person in the lands owned by a co-operative society or a joint family shall be deemed to be the extent of land which would be allotted to such raiyat or person had such lands been divided or partitioned, as the case may be.

2(5) The lands owned by a trust or endowment other than that of a public nature, shall be deemed to be lands owned by the author of the trust or endowment and such author shall be deemed to be a raiyat under this Act to the extent of his share in the said lands, and the share of such author in the said lands shall be taken into

account for calculating the area of lands owned and retainable by such author of the trust or endowment, and for determining his ceiling area for the purposes of this Chapter.

Explanation. The expression "author of trust or endowment" shall include the successors-in-interest of the author of such trust or endowment.

3 (6) Notwithstanding anything contained in sub-section (1), a trust or an institution of public nature exclusively for a charitable or religious purpose or both shall be deemed to be a raiyat under this Act and shall be entitled to retain lands not exceeding 7.00 standard hectares, notwithstanding the number of its centres or branches in the State.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

2. Sub-sec. (5) subs. by W.B. Act 50 of 1981. Previous sub-section (5) was as under: "(5) The lands owned by a trust or endowment other than of a public nature, shall be deemed to be lands owned by the beneficiaries under the trust or endowment and each such beneficiary shall be deemed to be a raiyat under this Act to the extent of the share of his beneficial interest in the said trust or endowment."

3. Sub-sec. (6) ins. by W.B. Act 50 of 1981.

14N. Determination of irrigated area :-

1

(1) If any question arises as to whether any land is or is not within an irrigated area, such question shall be determined by the prescribed authority in such manner as may be prescribed.

(2) The State Government shall prescribe such authority as it may think fit for the determination of the question referred to in sub-section (1).

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

14O. Appeal :-

1

(1) Any person who is aggrieved by any determination made by the prescribed authority under section 14N may, within thirty days from the date of such determination or within such further time as the appellate authority may, on sufficient cause being shown, allow, prefer an appeal to such authority as the State Government may,

by notification in the Official Gazette, specify in this behalf, against such determination.

(2) On receipt of such appeal, the appellate authority may, after giving a reasonable opportunity to the appellant of being heard, confirm, modify or reverse the determination made by the prescribed authority.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

14P. Land transferred after the 7th day of August, 1969 to be taken into account in determining the ceiling area :-

1

(1) In determining the ceiling area, any land transferred by sale, gift or otherwise or partitioned, by a raiyat after the 7th day of August 1969 but before the date of publication of the West Bengal Land Reforms (Amendment) Act, 1971 in the Official Gazette, shall be taken into account as if such land had not been transferred or partitioned, as the case may be:

Provided that provisions of sub-section (1) shall not apply to transfer or partition of land to which provisions of section 3A apply.

(1a) In determining the ceiling area, any land to which the provisions of section 3A of this Act apply and which was transferred or partitioned after the 7th day of August, 1969, but before the 9th day of September, 1989, shall be taken into account as if such land had not been transferred or partitioned, as the case may be.

(2) The provisions of sub-section (1a) shall not apply to a bona fide transfer or partition of any land as aforesaid, and the burden of proving the bona fides of such transfer or partition shall lie on the transferor or the person in whose name the land stood recorded before the partition, as the case may be.

(3) For the purposes of sub-section (2), the transfer of any land in favour of one or more of the following relatives of the transferor shall be presumed to be not bona fide:

(a) wife, or

(b) husband, or

(c) child, or

(d) grand child, or

- (e) parent, or
- (f) grand parent, or
- (g) brother, or
- (h) sister, or
- (i) brother's son or daughter, or
- (j) sister's son or daughter, or
- (k) daughter's husband, or
- (l) son's wife, or
- (m) wife's brother or sister, or
- (n) brother's wife.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972, then sec. 14P subs, by W.B. Act 35 of 1986 after facing an amendment by W.B. Act 50 of 1981. Previous sec. 14P was as under: "14P. Land transferred after 7th August, 1969, to be taken into account for determining the ceiling area. In determining the ceiling area, any land which was transferred, by sale, gift or otherwise or partitioned, by a raiyat after the 7th day of August, 1969, but before the date of publication, in the Official Gazette, of the West Bengal Land Reforms (Amendment) Act. 1981, shall be taken into account as if such land had not been transferred or partitioned, as the case may be."

14Q. Ceiling area in special cases :-

1

(1) Subject to the provisions of sub-section (2), the ceiling area for a co-operative society, company, co-operative farming society, Hindu undivided family or a firm, as the case may be, shall not exceed the sum total of the ceiling areas of each member of such co-operative society, company, co-operative farming society, Hindu undivided family or each partner of such firm: Provided that for the purpose of determining the ceiling area referred to in this sub-section, any land held separately by a person, who is a member of a co-operative society, company, co-operative farming society or Hindu undivided family or a partner of a firm, shall be deducted from the ceiling area referred to in section 14M, so that the sum total of the area of land held by such person, whether as such member or partner or individually or as a member or a family, may not, in any case, exceed the ceiling area applicable to him under

section 14M. ²* * * * *

(2)³* * * * *

(3) If the State Government, after having regard to all the circumstances of the case, is satisfied that a corporation or institution established exclusively for a charitable or religious purpose, or both, or a person holding any land in trust, or in pursuance of any other endowment, creating a legal obligation exclusively for a purpose which is charitable or religious, or both, requires land, as distinct from the income ⁴[or usufructs] derived from such land, for the due performance of its obligations, it may, by notification in the Official Gazette, increase the ceiling area for such corporation or institution or person to such extent as it may think fit:

⁵ Provided that the State Government may, at any time on its own motion or on an application, revise an order under this sub-section and may resume the whole or any part of the land in excess of the ceiling area and

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

2. Sub-sec. (2A) first ins. by W.B. Act 33 of 1974, then sub-sees. (2) and (2A) om. by W.B. Act 50 of 1981. Sub-sec. (2) was as under: "(2) Where a raiyat owns land comprised in orchards, whether or not in addition to other land, the ceiling area in relation to such raiyat shall be increased by 2.00 standard hectares or the actual area of the land comprised in orchards, whichever is the lesser."

3. Sub-sec. (2A) first ins. by W.B. Act 33 of 1974, then sub-sees. (2) and (2A) om. by W.B. Act 50 of 1981. Sub-sec. (2A) was as under: "(2A) In determining the ceiling area of a trust or institution of a public nature, established exclusively for a charitable or religious purpose or both, the number of its centres or branches in the State established before the 7th day of August, 1969, which do not hold any land as a raiyat shall be taken into account and each such centre or branch shall be deemed to be a raiyat for the purpose of clause (e) of sub-section (1) of section 14M so, however, that the ceiling area of such a trust or institution shall not exceed the sum total of the ceiling areas of each such centre or branch and of itself."

4. Words ins. by W.B. Act 50 of 1981.

5. Proviso ins. by W.B. Act 50 of 1981.

14R. Exemption :-

¹The provisions of section 14M shall not apply

(a) to any land owned as a raiyat by a local authority or ²[an] authority constituted or established by ³[or under] ⁴ * * * any law for the time being in force;

(b) for such period as may be specified by the State Government, by notification in the Official Gazette, to any land in such hilly portion of the district of Darjeeling as may be specified in the said notification.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

2. Word subs, for the words "any body or" by W.B. Act 50 of 1981.

3. Words ins. by W.B. Act 35 of 1986.

4. Words "or under" om. by W.B. Act 50 of 1981.

14S. Vesting of land in excess of ceiling area :-

1

(1) On the commencement of the provisions of this Chapter ²[or on any subsequent date], any land owned by a raiyat in excess of the ceiling area applicable to him shall vest in the State free from all encumbrances.

(2) Where any land vested in the State under sub-section (1) is being cultivated by a bargadar, the right of cultivation of such bargadar in relation to any such vested land which, including any other land owned or cultivated by him is in excess of [0.4047 hectare of land used for agriculture] shall, on the commencement of the provisions of this Chapter ²[or on any subsequent date] stand terminated.

(3) Every bargadar shall, in relation to the land which he is authorised by sub-section (2) to retain under his cultivation, become, on and from the date of commencement of the provisions of this Chapter ² [or on any subsequent date], a raiyat.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

2. Words ins. by W.B. Act 35 of 1986.

14SS. Power to enter upon and take possession of vested land :-

1

(1) Upon vesting of any land in the State under any of the provisions of this Act, the Revenue Officer or the prescribed authority or any other officer or authority who makes the order of

vesting shall enter upon and take possession of such vested land by using such force as may be necessary for this purpose.

(2) Any Revenue Officer, prescribed authority or any other officer or authority empowered in this behalf, may enter upon and take possession of any other vested land by using such force as may be necessary for this purpose.

(3) For the purpose of entering upon such land and taking possession thereof, any such officer or authority may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge

1. Sec. 14SS ins. by W.B. Act 50 of 1981.

14T. Duty of raiyat to furnish return :-

1

(1) Every raiyat owning land in excess of the ceiling area shall furnish to the Revenue Officer, in such form and within such time as may be prescribed, a return containing the full description of the land which he proposes to retain within the ceiling area applicable to him under section 14M and a full description of the land which is in excess of the ceiling area and such other particulars as may be prescribed.

(2) Where there are more raiyats than one in a family, the return referred to in sub-section (1) shall be furnished by the head of the family or any other raiyat in accordance with the provisions of that sub-section.

(3) The Revenue Officer may, on receipt of a return submitted under sub-section (1) or sub-section (2), or on his own motion, determine the extent of land which is to vest in the State under section 14S and take possession of such lands: 86 Provided that where a raiyat has exercised his choice of retention of land within the ceiling area in such a way that portions of more than one plot are to vest in the State, the Revenue Officer may disregard the choice exercised by the raiyat and may, after giving the raiyat an opportunity of being heard, determine the plot or, where necessary, plots of land proposed to be retained by the raiyat from which an area equal to the area of the portions of the plots shown in the return to be in excess of the ceiling area, is to vest in the State and take possession of such land:

2 Provided further that in the case of mortgage by a raiyat by

deposit of title deeds under clause (c) of sub-section (1) of section 7, such raiyat shall first retain the land comprised in his ³[plot of land] and mortgaged by him within the ceiling area and where the total area of any land comprised in his ⁵⁷[plot of land] and mortgaged by him exceeds the ceiling area, such portion of the land so mortgaged as is in excess of the ceiling area, together with any other land owned by him but not so mortgaged, shall vest in the State free from all incumbrances.

⁴(3A) The Revenue Officer may of his own motion and after giving the raiyat an opportunity of being heard, revise an order made under sub-sec-

Provided that applications made to the Revenue Officer prior to the commencement of the West Bengal Land Reforms (Amendment) Act, 1978 shall be disposed of by the Revenue Officer in accordance with the provisions of this sub-section.

(4) If a raiyat fails to furnish, without any reasonable excuse, the return referred to in sub-section (1), or sub-section (2), within the prescribed time or wiffully makes any omission or incorrect statement in such return, he shall be punishable ⁵[with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both].

⁶(5) The Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity of being heard, enquire and decide any question of benami in relation to any land and any question of title incidental thereto or any interest therein or any matter of transaction made, on being satisfied that such enquiry and decision are necessary for the purpose of preparation, correction or revision of record-of-rights and all matters incidental or consequential thereto or detection and vesting of surplus land over the ceiling area.

⁶(6) The Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity of being heard, enquire and decide any question as to whether any trust, endowment or institution is of public or private nature or of exclusively religious or charitable in character, or both, and any question of title incidental thereto as may be necessary to determine the extent of land which is to vest in the State under section 14S, by examining the documents, if any, or by taking into

account the following, among others :

(i) actual user of income or usufructs of the land,

(ii) mode of cultivation,

(iii) pattern of utilisation of the land, and

(iv) share of income or usufructs of the land appropriated or enjoyed, or the area of such land occupied or enjoyed, by or on behalf of the manager, sebit, mutwalli, or any other person managing the trust, endowment or institution.

8(7) Any person aggrieved by any order made under sub-sections (3), (3A), (5) or (6) may prefer an appeal under section 54.

7(8) Notwithstanding anything contained in this Act or in the West Bengal Estates Acquisition Act, 1953 or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgment, decision or award of any court, tribunal or authority, the provisions of subsections (5), (6) and (7) shall operate with retrospective effect from the 5th day of May, 1953.

7(9) Sub-sections (5), (6), (7) and (8) of this section shall be deemed to have always been inserted in the West Bengal Estates Acquisition Act, 1953. Any officer specially empowered in this behalf under the provision of the West Bengal Estates Acquisition Act, 1953 or under the provisions of this Act, may, in exercise of the powers conferred by sub-sections (5) to (8), reopen and decide afresh any proceeding, case or dispute in relation to determination of total land held by an intermediary or a raiyat or an under- raiyat at any point of time or may determine the quantum of land such intermediary, raiyat or under-raiyat was or is entitled to retain and also may determine the extent of land which is to vest in the State or which shall remain vested in the State and shall take possession of such land in accordance with the provisions of section 14SS. Notwithstanding any judgment, decision or award of any court, tribunal or authority to the contrary, the rule of res judicata shall not apply to such cases of re-opening and fresh determination.

11(10) Notwithstanding any return submitted by a raiyat under sub-section (1) or sub-section (2) and notwithstanding any order passed by the Revenue

12 (11) On the publication of the notification under sub-section

(10), the provisions of this section shall apply mutatis mutandis to every raiyat owning land in excess of the ceiling are under sub-section 14M.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.
2. Proviso ins. by W.B. Act 24 of 1990.
3. Words subs, for the word "holding" by W.B. Act 31 of 2000.
4. Sub-sec. (3A) first ins. by W.B. Act 12 of 1976, then subs, by W.B. Act 39 of 1978. Previous sub-sec. (3) was as under: "(3A) The Revenue Officer may, on application being made to him or of his own motion and after giving the raiyat an opportunity of being heard, revise an order made under sub-section (3) and determine afresh the extent of land which is to vest in the State under section 14S and take possession of such land."
5. Words subs, for the words "with fine which may extend to one thousand rupees" by W.B. Act 12 of 1976.
6. Sub-secs. (5) to (9) first ins. by W.B. Act 50 of 1981, then sub-sec. (5) subs, by W.B. Act 35 of 1986. Previous sub-sec. (5) was as under: "(5) The Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity of being heard, enquire and decide any question of benami in relation to any land and any question of title incidental thereto or any interest therein or any matter or transaction made with the object of defeating the ceiling provisions of this Chapter, in so far as such enquiry or decision shall be necessary to determine the extent of land which is to vest in the State under section 14S."
8. Sub-secs. (5) to (9) ins. by W.B. Act 50 of 1981.
11. Sub-sec. (10) ins. by W.B. Act 35 of 1986.
12. Sub-sec. (11) ins. by W.B. Act 35 of 1986.

14U. Restriction on transfer of land by a raiyat :-

1

(1) Except where he is permitted, in writing, by the Revenue Officer so to do a raiyat owning land in excess of the ceiling area applicable to him under section 14M, shall not, after the publication, in the Official Gazette, of the ²[West Bengal Land Reforms (Amendment) Act, 1971], transfer, by sale, gift or otherwise or make any partition of any land owned by him or any part thereof until the excess land, which is to vest in the State under section 14S, has been determined and taken possession of by or on behalf of the State:

3 Provided that nothing in this sub-section shall apply to any land to which the provisions of section 3A apply:

3 Provided further that if a raiyat has transferred any land which he retained in pursuance of any order of the Revenue Officer under sub-section (3) or sub-section (3A) of section 14T, such land shall be taken into account in determining, on any subsequent occasion, the ceiling area of the said raiyat in pursuance of the provisions of this Act, as if such land had not been transferred.

(2) Except where he is permitted, in writing, by the Revenue Officer so to do, a raiyat owning land to which the provisions of section 3A apply, whether or not such land together with other land, if any, is in excess of the ceiling area under section 14M, shall not on and from the date of coming into force of section 3A of the Act, transfer by sale, gift or otherwise, or make any partition of, any such land or any part thereof until the excess land, if any, which is to vest in the State under section 14S has been determined or redetermined and taken possession of by or on behalf of the State.

5(3) If a raiyat makes any transfer, whether by sale, gift or otherwise, of any land in contravention of the provisions of sub-section (1) or sub-section (2), the State Government may, in the first instance, take possession of land, equal in area to the land which is to vest in the State, from out of the land owned by such raiyat and where such recovery from the raiyat is not possible, from the transferee:

Provided that where the transferee is a person who is eligible for allotment of surplus land in accordance with the provisions of this Act, the State Government may, instead of enforcing its right to recover the land or equal amount of land, recover from the transferor the amount which he had received as consideration for the transfer of such land.

6 (4) Any raiyat who transfers any land in contravention of the provisions of sub-section (1) or sub-section (2) shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to six months or with both:

Provided that nothing in this sub-section shall apply to any transfer made in accordance with the provisions of any law for the time being in force.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of

1972.

2. Words, figures and brackets "West Bengal Land Reforms (Amendment) Act, 1981" first' subs, for the words, figures and brackets "West Bengal Land Reforms (Amendment) Act, 1971" by W.B. Act 50 of 1981, then the present words, figures and brackets resubs. for the words, figures and brackets "West Bengal Land Reforms (Amendment) Act, 1981" by W.B. Act 35 of 1986.

3. Provisos ins. by W.B. Act 35 of 1986.

5. Sub-sec. (3) subs, by W.B. Act 35 of 1986, which was earlier as under : "(3) Any raiyat who transfers any land in contravention of the provisions of sub-section (1) shall be punishable with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both."

6. Sub-sec. (4) ins. by W.B. Act 35 of 1986.

14V. Payment of amount :-

1 The State Government shall pay, in the prescribed manner, for the vesting of any land in the State under the provisions of this Act, after possession of such land is taken under sub-section (3) of section 14T, to the person or persons having any interest therein an amount equal to fifteen times the land revenue or its equivalent assessed for such land: or where such land revenue or its equivalent has not been assessed or is not required to be assessed, an amount calculated at the rate of Rs. 135 for an area of 0.4047 hectare.

1. Sec. 14V first ins. by W.B. Act 12 of 1972, then subs. by W.B. Act 41 of 1980. Previous sec. 14V was as under: "14V. Compensation. The principles on which, and the manner in which, compensation for the vesting of any land in the State under the provisions of this Chapter is to be determined and given shall be such as are specified in Chapter III of the West Bengal Estates Acquisition Act, 1953."

14W. . :-

1 * * * * *

1. Sec. 14W first ins. by W.B. Act 12 of 1972, then om. by W.B. Act 41 of 1980. The sec. was as under: "14W. Damages for use and occupation of land. (1) A raiyat who possesses, after the commencement of the provisions of this Chapter, any land in excess of the ceiling area shall be liable to pay to the State Government, for the period for which he has possessed such land, such compensation for the use and occupation of such land as the Collector may fix in the prescribed manner. (2) Any sum payable by a raiyat as damages for use and occupation of any land shall be recoverable as a public demand."

14X. Bar of jurisdiction of Civil Courts :-

¹ No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this Chapter required to be decided or dealt with or to be determined by the Revenue Officer or other authority specified therein and -no orders passed or proceedings commenced under the provisions of this Chapter shall be called in question in any Civil Court.

1. Chapter IIB containing secs. 14J to 14Y ins. by W.B. Act 12 of 1972.

14Y. Limitation on future acquisition of land by a raiyat :-

¹If at any time, after the commencement of the provisions of this Chapter, the total area of land owned by a raiyat exceeds the ceiling area applicable to him under section 14M, on account of transfer, inheritance or otherwise, the area of land which is in excess of the ceiling area shall vest in the State and all the provisions of this Chapter relating to ceiling area shall apply to such land:

²Provided that a person intending to establish a tea-garden, mill, factory or workshop, livestock breeding farm, poultry farm, or dairy ³[or township in a Planning Area as may be permitted to be developed under] the West Bengal Town and Country (Planning and Development) Act, 1979. may, with the previous permission, in writing, of the State Government and on such terms and conditions and in such manner as the State Government may by rules prescribe, acquire and hold land in excess of the ceiling area applicable to him under section 14M:

⁴Provided further that if such person, having been permitted by the State Government, does not utilise within ⁵[three years] of the date of such permission such land for the purpose for which he has been so permitted by the State Government to acquire and hold it, then, all the provisions of this Chapter relating to ceiling area shall apply to the area of land which is held in excess of the ceiling area applicable to him under section 14M.

⁶Explanation I. For the purposes of this section, "person" includes an individual, a firm, a company, an institution, or an association or body of individuals, whether incorporated or not.

⁶ Explanation II. "Township" shall mean a centre of urban population with defined boundaries within a Planning Area having, or proposing to have, usual urban facilities and approved as such

by the appropriate Department of the State Government.

1. Sec. 14Y first ins. by W.B. Act 12 of 1972, then subs. by W.B. Act 35 of 1986. Previous sec. 14Y was as under: "14Y. Limitation on future acquisition of land. If any raiyat acquires any land, whether by transfer, inheritance or otherwise, after the commencement of the provisions of this Chapter, and such land, together with the land owned by him, exceeds the ceiling area applicable to him under section 14M, the area of land which is in excess of such ceiling area shall vest in the State and all the provisions of this Chapter relating to ceiling on holding shall apply to such land."

2. Provisos ins. by W.B. Act 24 of 1996.

3. Words subs. for the words "or township in accordance with the provisions of by W.B. Act 31 of 2000, w.e.f. 27.8.1996.

4. Provisos ins. by W.B. Act 24 of 1996.

5. Words subs. for the words "two years" by W.B. Act 31 of 2000, w.e.f. 27.8.1996.

6. 'Explanation' to sec. 14Y first ins. by W.B. Act 24 of 1996, then 'Explanation' renumbered as 'Explanation I' and "Explanation II" ins. by W.B. Act 31 of 2000.

14Z. Application of Chapter IIB :-

¹For the removal of doubts it is hereby declared that

(1) notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgment, decision or award of any court, tribunal or authority, the provisions of this Chapter shall apply to all lands of all classes and descriptions defined in clause (7) of section 2;

(2) in the case of land comprised in a tea garden, mill, factory or workshop or land used for the purpose of livestock breeding, poultry farming or dairy, ²[or township in a Planning Area as may be permitted to be developed under the West Bengal Town and Country (Planning and Development) Act, 1979,] the raiyat, or where the land is held under a lease, the lessee, may be allowed to retain (in excess of the prescribed ceiling) only so much of such land as, in the opinion of the State Government, is required for the purpose of the tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, as the case may be:

Provided that the State Government may, if it thinks fit so to do, after reviewing the circumstances of a case and after giving the raiyat or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this clause specifying the

land which the raiyat or the lessee shall be entitled to retain for tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, ³[or township in a Planning Area as may be permitted to be developed under the West Bengal Town and Country (Planning and Development) Act, 1979,] as the case may be:

4 Provided further that in determining the land required for the purpose of tea cultivation, there shall not be any diminution of the area of a tea garden.

Explanation. The expression "land under a lease" includes any land held directly under the State Government under a lease.

1. Sec. 14Z ins. by W.B. Act 50 of 1981.
2. Words, figures and brackets ins. by W.B. Act 31 of 2000.
3. Words, figures and brackets ins. by W.B. Act 31 of 2000.
4. Proviso ins. by W.B. Act 35 of 1986.

CHAPTER 3

Bargadars

15. Certain safeguards for [plots of land] cultivated by bargadars :-

12

(1) The provisions of clauses (b) and (c) of sub-section (4) of section 4 shall not apply to the ³[plot of land] of a raiyat or any part of it which is cultivated by a bargadar so long as cultivation by a bargadar continues.

2(2) The right of cultivation of land by bargadar shall, subject to the provisions of this Chapter, be heritable and shall not be transferable.

2 (3) The provisions of this Chapter shall not apply to any person not belonging to a Scheduled Tribe claiming to be a bargadar under a raiyat belonging to a Scheduled Tribe.

1. Words subs, for the word "holdings" by W.B. Act 31 of 2000.
2. Sec. 15 renumbered as sub-sec. (1) of that sec. and sub-sees. (2) and (3) ins. by W.B. Act 50 of 1981.
3. Words subs, for the word "holding" by W.B. Act 31 of 2000.

15A. Continuation of right of cultivation on bargadars death

:-

1

(1) Notwithstanding anything contained in any law for the time

being in force or in any contract to the contrary, where a bargadar, cultivating any land, dies at a time when cultivation of such land by the bargadar was continuing, the cultivation of such land may be continued by the lawful heir of the bargadar or where there are more than one lawful heir, by such lawful heir of the bargadar as all the lawful heirs of the bargadar may determine within the prescribed period:

Provided that where the lawful heirs of the bargadar omit or fail to make a determination as required by this sub-section, the officer or authority appointed under sub-section (1) of section 18 may nominate one of the lawful heirs of the bargadar, who is in a position to cultivate the land personally, to continue the cultivation thereof.

(2) The lawful heir of the bargadar who is determined or nominated for the cultivation of the land shall cultivate the land subject to such terms and conditions as may be prescribed.

(3) Where (a) no lawful heir of the bargadar is in a position to cultivate the land personally, or (b) the lawful heirs of the bargadar fail to determine, within the prescribed period, the heir by whom the cultivation of the land will be continued and the officer or authority appointed under subsection (1) of section 18 also omits or fails to nominate, within the prescribed period, any lawful heir of the deceased bargadar for the continuation of the cultivation of the land, or

(c) the person determined or nominated under sub-section (1) omits or fails to take any steps, within the prescribed period, for the continuation of the cultivation of the land,

1. Sec. 15A ins. by W.B. Act 12 of 1972.

16. Share of produce payable by a bargadar :-

(1) The produce of any land cultivated by a bargadar shall be divided as between the bargadar and the person whose land he cultivates

(a) in the proportion of 50:50 in a case where plough, cattle manure and seeds necessary for cultivation are supplied by the person owning the land,

(b) in the proportion of ¹[75:25] in all other cases.

²(2) The bargadar shall tender, within the prescribed period, to the person whose land he cultivates, the share of the produce due to

such person.

2(3) Where any share of produce tendered under sub-section (2) is accepted by the person whose land is cultivated by the bargadar, each party shall give to the other a receipt, in such form as may be prescribed, for the quantity of the produce received by him.

2(4) If the person whose land is cultivated by the bargadar refuses to accept the share of the produce tendered to him by the bargadar, or to give a receipt therefor, the bargadar may deposit, within the prescribed period, such share of the produce with such officer or authority as may be prescribed and such deposit shall discharge the bargadar from his obligation to deliver the share of the produce to the person whose land he cultivates:

Provided that where the quantity of the produce deposited by the bargadar is lesser than the quantity of the produce due to the person whose land he cultivates, the obligation of the bargadar with regard to the delivery of the deficiency in relation to the produce shall continue.

2(5) Where a deposit referred to in sub-section (4) has been made, the prescribed officer or authority shall

(a) give to the bargadar a receipt in such form as may be prescribed stating therein the quantity of the produce deposited by the bargadar and the particulars of the person for whom the produce has been deposited; and

(b) give intimation of such deposit, in such form and in such manner as may be prescribed, to the person for whom the produce has been deposited.

6 (6) Where any produce is deposited under sub-section (4) and the person for whom the produce has been deposited does not take delivery of such produce within fifteen days from the date of service on him of the intimation of such deposit, the officer or authority referred to in sub-section (4) may sell such produce and deposit the proceeds of such sale, after deducting therefrom the cost of conducting the sale, in the treasury, in revenue deposit, to the credit of the person for whom the produce has been deposited and give intimation of such deposit to such person, in such form and in such manner as may be prescribed.

(7) The bargadar shall store or thresh the produce

(a) at such place as may be agreed upon between him and the person whose land he cultivates, or

(b) where there is disagreement between them, at such place as may be fixed by him after giving notice, in writing, served in the prescribed manner, to the person whose land he cultivates:

Provided that the person whose land is cultivated by the bargadar may, at any time during the storage or threshing of the produce, enter the place where the produce has been stored or is being threshed for the purpose of inspecting the storage or threshing, as the case may be, of the produce.

1. Figures subs. for the figures "60:40" by W.B. Act 12 of 1972.

2. Sub-sees. (2) to (7) subs. for original sub-sees. (2) and (3) by W.B. Act 12 of 1972, which were as under: "(2) The bargadar shall deliver to the person whose land he cultivates the share of the produce due to him within the prescribed period and on such delivery each party shall give to the other a receipt for the quantity of the produce received by him. (3) The bargadar shall store or thresh the produce at such place as may be agreed upon by him and the owner of the land."

6. Sub-sees. (2) to (7) with proviso subs. for original sub-sees. (2) and (3) by W.B. Act 12 of 1972.

16A. Bargadar entitled to recover his share in certain cases

:-

1 If the produce of any land cultivated by a bargadar is harvested and taken away, or if such produce after it is harvested by the bargadar is taken away, forcibly or otherwise, by the owner of such land, the bargadar shall be entitled to recover from such owner the share of the produce due to him or its money value.

1. Sec. 16A ins. by W.B. Act 23 of 1969.

17. Termination of cultivation by bargadar :-

(1) No person shall be entitled to terminate cultivation of his land by a bargadar except in execution of an order, made by such officer or authority as the State Government may appoint, on one or more of the following grounds:

(a) that the bargadar has without any reasonable cause failed to cultivate the land, **1*** * * * other than agriculture;

(b) that the land is not cultivated by the bargadar personally;

2(c) that the bargadar has failed to tender or deposit to the full extent the share of the produce as required by sub-section (2) or subsection (4), as the case may be, of section 16: Provided that no order for the termination of cultivation, made on the ground specified in this clause, shall be given effect to if the bargadar delivers to the person, whose land he cultivates, the share of the produce due to such person, or pays to him the market price thereof, within such time and in such instalments as the officer or authority making the order may, having regard to all the circumstances of the case, specify in this behalf.

(d) that the person owning the land requires it bona fide for bringing it under personal cultivation :

3 Provided that the person owning the land shall be entitled to terminate cultivation by a bargadar of only so much of land as, together with any other land in the personal cultivation of such person, does not exceed 3.00 hectares:

3 Provided further that such person shall not be entitled to so terminate cultivation by a bargadar as to reduce the aggregate area of the land cultivated by the bargadar to less than 1.00 hectare.

3 Explanation. In determining the areas specified in the foregoing provisos no transfer of land made after the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, shall be taken into account.

6(2) If an owner fails to bring under personal cultivation any land, the cultivation of which by a bargadar has been terminated under clause (d) of sub-section (1) within two years from the date of such termination or allows such land to be cultivated by some other person, the land shall vest in the State free from all incumbrances under an order of the prescribed authority in the prescribed manner, and the owner of the land shall be entitled to an amount therefor in accordance with the provisions of section 14V.

(3)⁷* * * *****

(4) No bargadar shall be entitled to cultivate more than **8**[4.00 hectares] of land. In computing this area, any land owned by the bargadar as well as the land cultivated by him as a bargadar shall be taken into account.

(5) If a bargadar cultivates land in excess of ⁶[4.00 hectares], the share of the produce due to him as a bargadar in respect of the land in excess of ⁶[4.00 hectares] shall be forfeited to the State Government by order made in this behalf by a Revenue Officer.

11(6) Where any land cultivated by a bargadar is in excess of the limit specified in sub-section (4), the person whose land is cultivated by such bargadar shall, if the excess land is within the ceiling area applicable to such person in accordance with the provisions of Chapter IIB, have the land cultivated by any person referred to in section 49 who is willing to cultivate the said land as a bargadar.

12 Explanation. For the purposes of clause (d) of sub-section (1) and sub-section (2), "personal cultivation" shall not include cultivation by servants or laborers on wages payable in cash or in kind not being as a share of the produce, or both.

1. Words "or has neglected to cultivate it properly" om. by W.B. Act 12 of 1972.

2. Clause (c) subs. by W.B. Act 12 of 1972, which was earlier as under: "(c) that the bargadar ha contravened any provisions of this Act;"

3. Provisos and 'Expln.' subs. for original proviso and Expln. by W.B. Act 12 of 1972. Previous proviso and Expln. were as under: "Provided that in a case covered by clause (d), when the quantity of land owned by such person is in excess of such area as may be specified by the State Government by order made in this behalf, he shall be entitled to terminate cultivation by a bargadar of only so much land which together with any land under his personal cultivation does not exceed two-thirds of the total quantity of land excluding homestead, owned by him. Explanation. For purposes of clause (b), a bargadar who cultivates the land with the help of members of his family shall be deemed to cultivate it personally."

6. Sub-sec. (2) subs, by W.B. Act 50 of 1981, which was earlier as under: "(2) If a person fails to bring under personal cultivation any land, the cultivation of which by a bargadar has been terminated by him under clause (d) of sub-section (1) or allows such land to be cultivated by some other bargadar within two years of the date of such termination, the prescribed authority shall sell it, on such terms and conditions as may be prescribed regarding the payment of the price, to the bargadar who was evicted under clause (d) of sub-section (1), and if such bargadar is unwilling to take the land at the market value or for any other reason, the land may be sold to other persons and the surplus sale proceeds, if any, after deducting the expenses of the sale, shall be paid to such person."

7. Sub-sec. (3) om. by W.B. Act 50 of 1981, which was as under: "

(3) The provisions of section 8 shall not apply to any land purchased by a bargadar under sub-section (2) of this section."

8. Words and figure "6.00 hectares" first subs. for the words "twenty-five acres" by W.B. Act 12 of 1972, then the word and figures within third brackets subs. for the words and figures "6.00 hectares" by W.B. Act 50 of 1981.

11. Sub-sec. (6) ins. by W.B. Act 12 of 1972.

12. 'Explanation' ins. by W.B. Act 34 of 1977.

18. Jurisdiction to decide certain disputes :-

(1) Every dispute between a bargadar and the person whose land he cultivates in respect of any of the following matters, namely:

(a) division or delivery of the produce,

1(aa) recovery of produce under section 16A,

(b) termination of cultivation by the bargadar,

2(C)* * * * * shall be decided by such officer or authority as the State Government may appoint:

3Provided that no application for decision of any dispute shall be entertained unless such application is presented to the officer or authority within three years from the date on which the claim falls or becomes due.

(2) If in deciding any dispute referred to in sub-section (1), **4**[or otherwise] any question arises as to whether a person is a bargadar or not and to whom the share of the produce is deliverable, such question shall be determined by the officer or authority mentioned in sub-section (1).

5(2A) If in deciding any question referred to in sub-section (2), the officer or authority mentioned in that sub-section finds that any default in the delivery of the share of the produce is due to doubt or uncertainty on the question whether the land in respect of which the share of the produce is claimed has vested in the State or has been retained under the West Bengal Estates Acquisition Act, 1953, **6**[or under this Act] by the person claiming the share, such officer or authority shall, instead of terminating cultivation of the land by the bargadar on the ground of default, allow him time to deliver the share of the produce due to the person entitled thereto or to pay the price thereof by annual instalments being deliverable or payable on a date not later than the first day of Chaitra next

following the date of the order. **7*** * * * *

8(3) The decision of any dispute referred to in clause (a) of subsection (1) shall specify the money value of the share of the produce to be delivered, which shall be payable in default of delivery of such share.

9(3A) The decision of any dispute referred to in clause (aa) of subsection (1) shall specify the quantity of the produce recoverable from the owner by the bargadar as his share and also its money value which shall be payable by the owner in default of delivery of such quantity of the produce.

10(4) For the removal of doubts it is hereby declared that notwithstanding any decision of any Court to the contrary, any order under clause (a) of subsection (1), specifying the money value of the share of the produce to be delivered payable in default of delivery of such share, made before the commencement of the West Bengal Land Reforms (Amendment) Act, 1962, shall be deemed to be and to have always been validly made as if that Act had come into force when such order was made.

11(5) If the decision of any dispute referred to in clause (a) of subsection (1) given before the commencement of the West Bengal Land Reforms (Amendment) Act, 1962, does not specify the money value of the share of the produce to be delivered, the bargadar or the person whose land is cultivated by the bargadar or the successor-in-interest of such person may, within ninety days from the commencement of the West Bengal Land Reforms (Amendment) Act, 1965, make an application before the officer or authority who decided the dispute or his or its successor for review of the decision for the purpose of specifying the money value of the share of the produce to be delivered payable in default of delivery of such share.

11 (6) Upon receipt of such application the officer or authority shall, after giving the parties to the dispute an opportunity of being heard and adducing evidence, pass an order specifying the money value of the share of the produce to be delivered, which shall be payable in default of delivery of such share.

1. - Clauses (aa) ins. by W.B. Act 23 of 1969.

2. Clause (c) om. by W.B. Act 12 of 1972, which was as under: "(c) place of storing or threshing the produce,"

3. Proviso first ins. by W.B. Act 18 of 1965, then subs. by W.B. Act 50 of 1981. Previous proviso was as under: "Provided that no application for decision of any dispute in respect of delivery of the produce referred to in clause (a) shall be entertained unless such application is presented to the officer or authority within two years from the date on which the delivery of the produce falls due."
4. Words ins. by W.B. Act 33 of 1974.
5. Sub-sec. (2A) ins. by W.B. Act 18 of 1965.
6. Words ins. by W.B. Act 50 of 1981.
7. Sub-sec. (2B) first ins. by W.B. Act 18 of 1965, then om. by W.B. Act 12 1972, which was as under: "(2B) If in deciding any dispute referred to in clause (b) of sub-section (1), the officer or authority mentioned in that sub-section, makes any order terminating cultivation by a bargadar on the ground of default in the delivery of the share of the produce for one year only, such officer or authority shall, at the time of making such order, direct the bargadar to deliver the share of the produce or pay the price thereof to the person whose land he cultivates by the first day of Chaitra of the year next following the year in respect of which default was made or, where such order is made after such date, by the first day of Chaitra next following the date of such order, and no such order shall be executed if the share of the produce or the price thereof is so delivered or paid by the bargadar by such date as so directed."
8. Sub-sec. (3) ins. by W.B. Act 16 of 1962.
9. Sub-sec. (3A) ins. by W.B. Act 23 of 1969.
10. Sub-sec. (4) ins. by W.B. Act 16 of 1962.
11. Sub-sees. (5) and (6) ins. by W.B. Act 18 of 1965.

18A. Continuance in office of officers and authorities appointed under section 17 and 18 until successor commences to function :-

1

(1) An officer or authority appointed under section 17 or section 18 shall continue to function after the appointment of his or its successor until such successor commences to function.

(2) Notwithstanding any decision of any court to the contrary, any proceedings-continued by or before any such officer or authority and any order made by any such officer or authority, after his or its successor is appointed but before such successor commences to function, shall be deemed to be and to have always been validly continued or made.

(3) Any appeal against any order referred to in sub-section (2) filed before the commencement of the West Bengal Land Reforms (Amendment) Act, 1960 or any order made in any such appeal shall

have no effect.

1. Sec. 18A ins. by W.B. Act 6 of 1960.

19. Appeal :-

(1) An appeal shall lie to the ¹[Collector], having jurisdiction over the area in which the land is situated, against any order made ²[under section 17 or section 18 or sub-section (3) of section 21.] The ¹¹Collector] shall, on an appeal being disposed of, send a copy of his order to the officer or authority whose decision is appealed against. ¹³(1AJ) An officer or authority appointed by the State Government under section 17 or section 18 or an officer specially empowered under sub-section (1) of section 19B shall not pass any interlocutory or final order in any proceedings before him or it on the basis of any consent, agreement or compromise obtained or effected for the purpose of such proceedings, notwithstanding anything contained in the Indian Contract Act, 1872, or any other law for the time being in force.

(2) The period within which the appeal mentioned in sub-section (1) must be filed shall be thirty days from the date of the order appealed against:

³Provided that an appeal against any order referred to in sub-section (2) of section ISA made before the commencement of the West Bengal Land Reforms (Amendment) Act, 1960 may be filed within ninety days of such commencement:

⁴Provided further that the provisions of section 5 of the Indian Limitation Act, 1908 shall apply to an appeal under this section.

⁵(2 A) Every appeal pending before any Munsif at the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, shall, on such commencement, stand transferred to, and be disposed of by, the Sub-Divisional Officer having jurisdiction in relation to the area in which the land is situated and on such transfer every such appeal shall be dealt with from the stage at which' it was so transferred and shall be disposed of in accordance with the provisions of this Act as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

⁵(2B) The Sub-Divisional Officer may transfer any appeal, whether transferred to, or filed before, him, for disposal to any officer not below the rank of a Sub-Deputy Collector, subordinate to him, but

senior in rank and position to the officer or authority against whose order the appeal has been preferred and every such appeal shall be dealt with from the stage at which it was so transferred and shall be disposed of in accordance with the provisions of this Act as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

7(3) The **8** [(Collector) or other officer] hearing the appeal may for sufficient cause make an order staying execution of the order appealed against.

6(4) When the **7** [(Collector) or other officer] makes an order under subsection (3), a copy of such order shall be sent to the officer or authority before whom an application for execution is pending.

1. Words "Sub-Divisional Officer" first subs, for the word "Munsif" by W. B. Act 12 of 1972, then the word "Collector" again subs, for the words "Sub-Divisional Officer" by W.B. Act 50 of 1981.

2. Words, figures and brackets subs, for the words and figures "under section 17 or section 18 except where such order was made with the consent of the parties to the dispute." by W.B. Act 50 of 1981.

3. Proviso ins. by W.B. Act 6 of 1960.

4. Proviso ins. by W.B. Act 16 of 1962.

5. Sub-sees. (2A) and (2B) ins. by W.B. Act 12 of 1972.

7. Sub-sees. (3) and (4) ins. by W.B. Act 18 of 1965.

8. Words "Sub-Divisional Officer or other officer" first subs, for the word "Munsif" by W.B. Act 12 of 1972, then the word "Collector" again subs, for the words "Sub-Divisional Officer" by W.B. Act 50 of 1981.

19A. Penalty :-

(1) Any person who fails to comply with an order made under section 17, 18 or 19 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

(2) If, after the commencement of the West Bengal Land Reforms (Amendment) Act, 1966, any person owning any land terminates or causes to be terminated **1** [or attempts to terminate] the cultivation of the land by a bargadar in contravention of the provisions of this Act, he shall be guilty of an offence punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

2(2A) Any person who fails to give a receipt in contravention of the

provisions of sub-section (3) of section 16 for the share of the produce accepted by him shall be guilty of an offence punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

3(3) An offence under subsection (2) **4** [or under sub-section (2A)] shall be cognizable and bailable.

1. Words ins. by W.B. Act 34 of 1977.
2. Sub-sec. (2A) ins. by W.B. Act 34 of 1977.
3. Sec. 19A renumbered as sub-sec. (1) of that sec. and sub-sees. (2) and (3) ins. by W.B. Act 11 of 1966.
4. Words, figure, letter and brackets ins. by W.B. Act 34 of 1977.

19B. Restoration of land to bargadar :-

(1) If a person owning any land terminates or causes to be terminated the cultivation of the land by a bargadar in contravention of the provisions of this Act, then any officer specially empowered by the State Government in this behalf, shall, on an application by such bargadar, by order direct

(a) in a case where such land has not been cultivated, or has been cultivated by the owner or by any person on his behalf other than a bargadar, that the land be immediately restored to the applicant and further that forty per cent, of any produce of the land shall be forfeited to the State Government and the remaining sixty per cent, of such crops shall be retained by the applicant.

(b) in a case where such land has been cultivated by a [person other than the bargadar] engaged by the owner, that the land be restored at the end of the cultivation season to the applicant and further that the [person other than the bargadar] [shall retain twenty-five per cent.} of the crops harvested before restoration and make over the [remaining seventy-five per cent.} of such crops to the applicant: Provided that nothing in this section shall apply to termination of cultivation by a bargadar if the termination occurred before the 4th day of August, 1970, namely, the date with effect from which the West Bengal Land Reforms (Amendment) Act, 1969 ceased to be in force:

Provided further that an application under sub-section (1) shall be made within two years from the date of termination of cultivation by the bargadar or two years from the date of commencement of the West Bengal Land Reforms (Amendment) Act, 1980, whichever

is later:

Provided also that if there is more than one applicant, the bargadar who has cultivated the land for the longest period shall be considered to be the rightful bargadar for the purpose of restoration in exclusion of other bargadars :

Provided also that after any application under sub-section (1) has been disposed of with the order of restoration of cultivation by a bargadar, the question shall not be reopened on any other application.

Explanation. For determining the "longest period", the total period of cultivation may not be continuous, but while computing the "longest period" of cultivation, the period or periods of cultivation since the 4th day of August, 1970 (which may or may not be continuous) shall only be taken into account.

1(1A) If the produce forfeited under clause (a) of sub-section (1) cannot be recovered from the owner of the land or the person cultivating the land on his behalf other than a bargadar or if the share of produce receivable by the bargadar under clause (b) of sub-section (1) cannot be recovered from any person other than the bargadar, money value of the share of produce so forfeited under clause (a) or share of produce so receivable under clause (b) shall be recovered by the prescribed authority under sub-section (1) as a "public demand" under the Bengal Public Demands Recovery Act, 1913, on a written requisition sent by such prescribed authority to the certificate officer.

2(2) An appeal against any order made under sub-section (1) shall lie to the Collector who shall be superior in rank to the officer from whose order the appeal is preferred.

3 * * * * *

1. Sub-sec. (1A) ins. by W.B. Act 50 of 1981.

2. Sub-sec. (2) subs, by W.B. Act 50 of 1981. Previous sub-sec. (2) was as under: "(2) An appeal shall lie to the Collector against any order made under sub-section (1)."

3. Sub-sec. (3) om. by W.B. Act 50 of 1981, which was as under: "(3) For purposes of sub-section (2), Collector shall include an Additional Collector, a Deputy Collector, a Sub-Collector, a Sub-Deputy Collector, or any officer specially empowered by that State Government in this behalf."

20. Procedure and execution :-

(1) The procedure to be followed in deciding disputes or appeals under this Chapter and the fees to be paid by the parties shall be as may be prescribed.

(2) Any order made under this Chapter including an order passed on appeal shall be executed by the officer or authority appointed by the State Government, in such manner as may be prescribed.

1 (3) No order for the ejection of a bargadar shall be executed except during the months of the Bengali year specified below:

(i) in such portions of the district of Darjeeling as may be declared by notification by the State Government to be hilly portions, the month of Paus or Magh, and

(ii) elsewhere, the month of Chaitra or Baisakh:

Provided that proper compensation is paid, in such manner as may be prescribed, by the owner to the bargadar for his share of the standing crops, if any.

1. Sub-sec. (3) subs, by W.B. Act 18 of 1960, which was earlier as under: "(3) No order for the ejection of a bargadar shall be executed except during the months of Chairta or Baisakh of the Bengali year."

20A. Setting aside of order for termination of cultivation by bargadars :-

1 Notwithstanding anything contained in any law for the time being in force, where, before the commencement of the West Bengal Land Reforms (Amendment) Act, 1969, an order for the termination of cultivation of any land by a bargadar had been made under clause (b) of sub-section (1) of section 18 but such order has not been given effect to (whether by reason of the operation of any law or otherwise), before the commencement of the West Bengal Land Reforms (Amendment) Act, 1970, then, such order shall, on such commencements, stand vacated and the officer or authority by whom such order was made shall, after giving notice to the parties concerned, decide the dispute in accordance with the provisions of section 17 as amended by the West Bengal Land Reforms (Amendment) Act, 1972.

1. Sees. 20A and 20B ins. by W.B. Act 12 of 1972.

20B. Surrender or abandonment by bargadar :-

1

(1) If a bargadar

(a) surrenders his right to cultivate in relation to any land cultivated by him as a bargadar, or

(b) voluntarily abandons cultivation of such land, ²[the owner of the land or the bargadar or any other person], may give information in writing of such surrender or abandonment to the officer or authority appointed under sub-section (1) of section 18, having jurisdiction in the area in which such land is situated.

(2) On receipt of such information ³ [or on his own motion], such officer or authority shall issue a notice, in the prescribed form, to the bargadar, and after giving the bargadar and the person whose land was cultivated by the bargadar, an opportunity of being heard and making such inquiries as he or it may deem necessary, determine whether the bargadar had voluntarily surrendered or abandoned his right of cultivation in relation to such land.

(3) If such officer or authority determines that the bargadar had not voluntarily surrendered or abandoned the cultivation of the land which was being cultivated by him as such and that he had been compelled by force or otherwise to surrender or abandon the cultivation of such land, such officer or authority shall restore the bargadar to the cultivation of the land, or where the bargadar is not available or is not willing to be restored to the cultivation of such land, the person whose land was so cultivated shall not resume personal cultivation of the land but he may, with the permission of such officer or authority, get the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a bargadar.

(4) If such officer or authority determines that the bargadar had voluntarily surrendered or abandoned the cultivation of the land which was cultivated by him as such, the person whose land was being so cultivated shall not resume personal cultivation of such land but he may, with the permission of such officer or authority, have the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a bargadar.

(5) Any contravention of the provisions of sub-section (3) or sub-section

(4) shall be an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both : Provided that subject to the payment of compensation by a transferee to a bargadar under the Land Acquisition Act, 1894, and the rules made thereunder, nothing in this sub-section shall apply to any land intended to be utilised for any of the purposes referred to in the first proviso to section 14Y.

1. Sees. 20A and 20B ins. by W.B. Act 12 of 1972.

2. Words subs, for the words "the person, whose land was cultivated by the bargadar" by W.B. Act 50 of 1981.

3. Words ins. by W.B. Act 50 of 1981.

21. Bar of jurisdiction :-

(1) ¹* * * * no order or other proceedings whatsoever under this Chapter shall be questioned in any civil court and no civil court shall entertain any suit or proceeding in respect of any matter mentioned in ²[sections 17, 18, 19B and 20B].

(2) On the appointment of officers or authorities under this Chapter all proceedings pending before any Bhagchas Conciliation Board established under the West Bengal Bargadars Act, 1950, shall stand transferred to the officer or authority having jurisdiction over the area in which the land, to which the proceedings relate, is situated.

³(3) If any question as to whether a person is or is not a bargadar arises in the course of any ⁴[suit, case, appeal or other] proceedings before any Civil or Criminal Court, the Court shall refer it to the officer or authority mentioned in sub-section (1) of section 18 ⁵[for decision and such Court shall dispose of the suit, case, appeal or other proceedings in accordance with the decision communicated to it by the officer or authority mentioned in sub-section (1) of section 18 to whom the question was referred.]

⁶ (4) On a reference being made under sub-section (3) of this section to the officer or authority mentioned in sub-section (1) of section 18 for decision, such officer or authority shall personally make such enquiry as may be prescribed, shall arrive at a decision after giving all the parties to the suit, case, appeal or other proceedings an opportunity of being heard and shall communicate his or its decision in the prescribed manner to the Court which made the reference. After communication of his or its decision to

the referring Court such decision shall not be altered or revised except in an appeal under section 19.

1. Words and figures "Save as provided in section 19," om. by W.B. Act 12 of 1972.
2. Words and figures subs, for the words and figures "sections 17 and 18" by W.B. Act 50 of 1981.
3. Sub-sec. (3) ins. by W.B. Act 33 of 1974.
4. Words ins. by W.B. Act 50 of 1981.
5. Words subs, for the words "for decision" by W.B. Act 50 of 1981.
6. Sub-sec. (4) ins. by W.B. Act 50 of 1981.

21A. Temporary stay of proceedings for termination of cultivation by bargadars :-

Notwithstanding anything contained in this Chapter,

(a) all applications made under section 18 for the termination of cultivation by bargadars,

(b) all appeals preferred under section 19 against orders made on such applications, and

(c) all proceedings commenced under sub-section (2) of section 20 for execution of orders for termination of cultivation by bargadars, which are pending before the appropriate authority at the date of commencement of the West Bengal Land Reforms (Amendment) Act, 1969, or which may be so made, preferred or commenced after such date but before the expiry of the said Act, shall be stayed for the period during which the said Act continues in force.

21B. Person cultivating land of another person to be presumed to be a bargadar in certain cases :-

A person lawfully cultivating any land belonging to another person shall be presumed to be a bargadar in respect of such land if such person is not a member of the family of the other person whose land he cultivates and the burden of proving that such person is not a bargadar or that the land is in his personal cultivation shall, notwithstanding anything to the contrary contained in any other law for the time being in force, lie on the persons who alleges that the person cultivating the land is not a bargadar in respect of such land.

21C. Constitution of State Land Corporation or Regional Land Corporation :-

(1) The State Government may on its own motion, by notification in the Official Gazette, constitute a State Land Corporation, or one

or more Regional Land Corporations or both.

(2) The State Land Corporation and each of the Regional Land Corporations (hereafter in this section called as Corporation) shall be body corporate with perpetual succession and common seal, and shall have power to acquire, hold and dispose of property, to advance funds, to enter into contracts, to institute and defend suits, cases and all other legal proceedings and to do all things necessary for the purpose of carrying on its object.

(3) The object of the Corporation shall be to advance funds in the prescribed manner to a recorded bargadar of the land intended to be sold or to abargadar of the land intended to be sold and holding certificate issued under the rules made under this Act or to a person eligible for settlement of land under section 49, to enable him to purchase agricultural land from a raiyat who owns at the material time not exceeding one standard hectare as defined in clause (f) of section 14K of land in the aggregate, whose principal source of income is produce from his land and who being in distress has failed to sell the land in the open market on account of cultivation of the land, which the raiyat intends to sell, by the bargadar and the name of the bargadar has been recorded or certificate has been issued to the bargadar, provided such bargadar or such person is otherwise eligible to receive the advance of fund, as may be prescribed.

(4) The price of the land intended to be purchased by the eligible bargadar shall be settled as between the bargadar and the owner of the land. Failing such settlement of price, the Corporation, on being requested by the owner of the land or the bargadar or on its own motion may assess the market value of the land for assessment thereof, mutatis mutandis, in accordance with the principles of the Land Acquisition Act, 1894 taking into account the fact of cultivation by bargadar, but assessment of market value shall not include any solatium or interest or any other thing except the market value of the land.

(5) If in such a case the bargadar fails or does not intend to buy the land cultivated by him as bargadar, the Corporation, on being requested by the owner of the land, may offer the land to a person eligible under section 49 to buy the land at the mutually settled price or at the price assessed by the Corporation under sub-section (4). If such person fails or does not intend to buy, the Corporation may, within a period of six months of the request by the owner of

the land purchase the land at a price mutually settled between the Corporation and the owner of the land or at the price assessed by the Corporation under sub-section (4) and in case of such purchase the Corporation shall pay the settled or assessed market value, as the case may be, to the owner of the land.

(6) The instrument of purchase shall be by a registered deed of conveyance. If, however, the owner of the land does not register the deed of conveyance within thirty days of payment of the settled or assessed price to him by or on behalf of the bargadar or by the person eligible under section 49 or by the Corporation, as the case may be, notwithstanding anything contained in the Registration Act, 1908, the Transfer of Property Act, 1882, or any other law for the time being in force, the issue of notification in the Official Gazette by the Corporation shall be the conclusive evidence of sale of the land.

(7) The recorded bargadar or the bargadar holding a certificate or the person eligible under section 49 who purchases the land shall mortgage the land to the Corporation as security for the loan advanced or to be advanced to him by a registered instrument and the loan along with service or other charges shall be repayable to the Corporation in the prescribed manner.

(8) The land when purchased by the Corporation or acquired by the Corporation in satisfaction of a mortgage shall be sold in public auction in such manner as may be prescribed, for realising the money spent in purchasing or acquiring the land and also for service or other charges, if any.

(9) For the purpose of this section, the word "distress" shall mean

(a) marriage of a daughter,

(b) performance of an obligatory ceremony due to death of father, mother, husband or wife, as the case may be,

(c) medical treatment of an illness of a very serious nature endangering the life of the owner of the land or the husband or wife of the owner, as the case may be, and minor sons, unmarried daughters and any other relative having no independent source of income and solely dependent on the owner,

(d) maintenance of the owner of the land or the husband or wife of the owner, as the case may be, and minor sons, unmarried

daughters and any other relative having no independent source of income and solely dependent on the owner, due to flood, drought or any other natural calamity.

(10) All powers, functions, rights and obligations laid down in this section for the Corporation shall be applicable to and exercised by any institution or organisation as may be notified by the State Government in the Official Gazette on such terms and conditions and in such manner as may be prescribed:

Provided that the provisions of this section shall not apply to a bargadar who owns and cultivates 4.00 hectares of land in the aggregate.

21D. Names of bargadars to be entered in the record-of-rights :-

1

2(1) The names of bargadars in respect of every raiyat shall be entered in the record-of-rights in such manner as may be prescribed.

2 (2) The provisions of sub-section (1) shall have effect notwithstanding anything contained in Chapter VII or Chapter VILA, of this Act.

1. Sees. 21D and 21E ins. by W.B. Act 50 of 1981.

2. Sec. 21D renumbered as sub-sec. (1) of that sec. and sub-sec. (2) ins. by W.B. Act 23 of 1989.

21E. Bar to legal practitioners :-

1 In deciding any dispute under the provisions of Chapter III, the officers and authorities may allow any party to the dispute, unable to make submission on its behalf, to be represented by its relative or by a representative of the association or organisation to which the party belongs:

Provided that no Advocate or legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879 shall be allowed to appear, plead or act in any capacity on behalf of the party before any officer or authority, unless such Advocate or legal practitioner himself is a party to the dispute.

1. Sees. 21D and 21E ins. by W.B. Act 50 of 1981.

CHAPTER 4

Provisions as to revenue

22. Liability to pay revenue :-

(1) A raiyat shall be liable to pay revenue for his plot of land.

(2) Revenue shall be a first charge on land held by the raiyat.

23. Determination of revenue :-

Notwithstanding anything to the contrary contained in any judgement, decree, or order of any court or tribunal or in any law for the time being in force, a raiyat shall pay as revenue in the following manner with effect from such date as the State Government may, by notification in the Official Gazette, specify for his land:

(a) above 6 acres, rupees 20 per acre;

(b) comprised in tea garden and land used for cultivation of tea, rupees 30 per acre;

(c) used for mill, factory, workshop or other commercial purposes in rural areas, rupees 3 per decimal;

(d) used for mill, factory, workshop or other commercial purposes in urban areas, rupees 4 per decimal or the rent as on the day immediately before the date specified in the notification as aforesaid, whichever is higher;

(e) used for non-agricultural purposes including homestead in the urban areas, other than urban agglomeration referred to in clause (f), rupees 2 per decimal;

(f) used for non-agricultural purposes including homestead in an urban agglomeration as defined in the Urban Land (Ceiling and Regulation) Act, 1976, rupees 3 per decimal.

Explanation. "Urban area" shall mean

(1) any area within the local limits of a Municipality, or

(2) any area constituted by the State Government as a notified area under the West Bengal Municipal Act, 1993, or

(3) such area in a newly developing locality as the State Government may, by notification in the Official Gazette, specify.

24. Exemption of revenue and payment of cess and surcharge :-

(1) Notwithstanding anything contained in this Chapter, (a) where

the Revenue Officer on his own motion or on an application made by a raiyat makes an order that the total area of land held by a raiyat and his family does not exceed 2.428 hectares, the raiyat and his family shall be exempted from paying revenue with effect from the 1st day of Baisakh, 1385 B.S.:

Provided that such exemption shall not affect the liability of the raiyat to pay any cess imposed on him under the Cess Act, 1880, or the West Bengal Primary Education Act, 1973, or the West Bengal Rural Employment and Production Act, 1976, or any other law for the time being in force, on the basis of the revenue of his land determined under section 23:

Provided further that no exemption shall be made in respect of any land which lies within

- (a) any area within the local limits of a Municipality, or
- (b) any area constituted by the State Government as a notified area under section 378 of the West Bengal Municipal Act, 1993, or
- (c) any area in a newly-developing locality as the State Government may, by notification in the Official Gazette, specify, or
- (d) any area within an urban agglomeration as defined in clause (n) of section 2 of the Urban Land (Ceiling and Regulation) Act, 1976, or
- (e) any area which is used for mill, factory, workshop or other commercial purposes;
- (f) where the land held by a raiyat and his family is situated in both irrigated and non-irrigated areas, then, for the purposes of calculating the total area of land of the raiyat and his family, one hectare of land in irrigated area shall be deemed to be equivalent to 1.5 hectares of land in non-irrigated area;
- (g) if any amount already paid by a raiyat is in excess of the revenue payable by him under this section, the amount paid in excess shall be refunded to him, but if there is any deficiency in such payment, such deficiency shall be recovered from him as an arrear of revenue under the Bengal Public Demands Recovery Act, 1913, without any claim for interest being made on such deficiency.

Explanation. For the purposes of this section, (i) "family", in relation to a raiyat, shall be deemed to consist of himself, his wife,

minor sons and unmarried daughters, if any, and (ii) "irrigated area" shall have the same meaning as in clause (d) of section 14K.

(2) Any person aggrieved by an order made by the Revenue Officer under clause (a) of sub-section (1) may, within thirty days from the date of such order or within such further time as such authority may, on sufficient causes being shown, allow, prefer an appeal to such authority as the State Government may, by notification in the Official Gazette, specify.

25. Grounds for alteration of revenue :-

The revenue payable by a raiyat may, in the manner to be prescribed, be altered by the Revenue Officer, if the land held by the raiyat and his family has increased or decreased in area by diluvion, amalgamation, purchase, partition, subdivision, acquisition or any other cause whatsoever subsequent to the determination of revenue.

26. Bar to jurisdiction of Civil Court :-

No suit or other legal proceedings shall be instituted in any Civil Court in respect of the determination of any revenue or the omission to determine any revenue under this Chapter.

27. Instalment, time and place for payment of revenue :-

(1) A raiyat shall pay revenue in such instalments, in such manner, and at such times, as may be prescribed.

(2) Payment of revenue shall be made at the office of the Revenue Inspector or at such other places and in such manner as may be prescribed.

(3) Any instalment of revenue or part thereof which is not duly paid within the prescribed time shall be deemed to be an arrear.

28. Raiyat entitled to receipt for revenue :-

Every raiyat shall, on making payment of revenue, be entitled to obtain forthwith a written receipt in the prescribed form for the amount paid by him, signed by the person authorised to make collection of revenue.

29. Chapter IV to have overriding effect :-

The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained in the West Bengal Land Holding Revenue Act, 1979.

30. Repeal of West Ben. Act 44 of 1979 :-

The West Bengal Land Holding Revenue Act, 1979, shall stand repealed with effect from such date as the State Government may by notification in the Official Gazette, appoint.

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CHAPTER 5

Consolidation of lands comprised in [plots of land], and Co-operative Farming Societies

39. Acquisition of [plots of land] for consolidation :-

The State Government may

(a) on the representation of raiyats in any area [as may be necessary], or

(b) on its own motion, acquire the lands in any area on payment of compensation to the raiyats owning them when the lands comprised in the [plots of land] of the raiyats in such area are not in compact blocks, if the State Government is of the opinion that the lands comprised [in the 49(plots of land) in such area] should be consolidated:

Provided that consolidation of lands may be undertaken by the State Government if any seven or more persons being raiyats each

owning land not exceeding 0.4047 hectare of land in the aggregate or being recipients of lands settled under section 49 or from both such categories make representation therefor.

40. Redistribution of land after acquisition :-

On such acquisition being made, the State Government shall re-arrange [the plots of land] so that the lands comprised in each is in a compact block and re-allot them to the raiyats whose lands have been acquired, in such manner as it thinks fit, ensuring that each raiyat gets [a plot of land] comprising the same area, and, as far as possible, lands of the same quality and value as before the consolidation:

Provided that no raiyat shall be entitled to receive any land in excess of the area held by him prior to acquisition:

Provided further that on such allotment being made there shall be deducted from the amount of compensation payable to a raiyat under section 39 the value of the land allotted to him after acquisition.

41. Transference of incumbrances on [plot of land] :-

If the [plot of land] of a raiyat which is acquired for the purposes of consolidation is subject to any incumbrance, such incumbrance shall be deemed to be transferred and attached to the land which is allotted to the raiyat after acquisition and to the compensation, if any, payable to him under this Chapter and shall cease to have any effect against the land from which it has been so transferred.

42. Recovery of the excess value of allotted land :-

If the value of the land allotted to a raiyat after acquisition be greater than the value of the land acquired from such raiyat, the difference in value shall be recoverable from him in such instalments as may be prescribed and if such difference be not paid within the time allowed for the purpose, it shall be recoverable as a public demand payable to the Collector unless the raiyat declines to accept settlement of the land allotted to him.

43. Formation of Co-operative Farming Societies :-

(1) Any seven or more raiyats owning lands in a compact block or intending to acquire such land, may form themselves into a Co-operative Farming Society and apply in writing, in the prescribed form, to the Registrar, Co-operative Societies, for the registration of such society under [the West Bengal Cooperative Societies Act,

1973].

(2) The Registrar may, after such enquiry as he may deem fit, register the society under [the West Bengal Co-operative Societies Act, 1973], and grant a certificate of registration and on such registration the provisions of [the West Bengal Co-operative Societies Act, 1973], subject to the special provisions of this Act, shall apply to such a society and the society may enlist new members in accordance with the rules and bye-laws under the said Act for the time being in force.

(3) When a Co-operative Farming Society has been registered under sub-section (2), all lands, excluding homesteads belonging to the members thereof and forming one compact block, whether owned by them at the time when they became such members or acquired by them subsequently, shall vest in the society, and no member shall be entitled to hold in his personal capacity any land, excluding homestead, which together with any land belonging to him but vested in the society under the provisions of this sub-section [exceeds the ceiling area applicable to him under Chapter IIB].

(4) When the lands belonging to a member of a Co-operative Farming Society vest in such society, there shall be allotted to him shares the value of which will, as far as possible, be equal to the value of the lands of the member vested in the society.

(5) Notwithstanding anything elsewhere contained in this Act, no Cooperative Farming Society shall have the right to acquire or hold any land except the land which vests in it under sub-section (3). *
* * * *

44. Restriction on transfer of shares in a Co-operative Farming Society :-

(1) The shares held by a member of a Co-operative Farming Society shall not be transferred to any person other than another member of the society or a raiyat or other person residing in the locality in which the society has been established.

(2) Subject to the restrictions mentioned in sub-section (1), the shares held by a member of a Co-operative Farming Society shall be transferable and heritable.

45. Dissolution of a Co-operative Farming Society :-

No Co-operative Farming Society established in accordance with the provisions of this Act shall be wound up or dissolved except under the orders of the State Government.

46. Transfer of lands on dissolution of a Co-operative Farming Society :-

When a Co-operative Farming Society is wound up or dissolved, the prescribed authority shall allot to its members, in such manner and subject to such rules as may be prescribed, all the lands vested in the society, and the rules may provide for equitable allotment of lands to the members having regard to the area and the quality of lands belonging to them before the vesting of such lands in the society.

47. Revenue payable by a Co-operative Farming Society :-

When a Co-operative Farming Society is established under the provisions of this Act, the aggregate of the revenues which would have been payable by its members for their lands, if such lands had not vested in the society, shall be the revenue payable by the society for the lands vesting in it, subject to such reduction as may be allowed under section 48.

48. Concession and facilities for a Co-operative Farming Society :-

(1) A Co-operative Farming Society established under this Act shall be entitled to such concessions and facilities from the State Government as may be prescribed.

(2) Without prejudice to- the generality of the foregoing provisions, such concessions and facilities may include

(a) such reduction of revenue as Government may allow;

(b) free supply of seeds and manure for the first three years and thereafter at concessional rates;

(c) free technical advice by the experts of the State Government;

(d) financial assistance on such terms and conditions as may be prescribed;

(e) arrangements for better marketing.

48A. Formation of Co-operative Common Service Society :-

(1) Any seven or more persons each owning, cultivating or possessing in any capacity agricultural land not exceeding 0.4047 hectare in area in aggregate in any compact block or in different blocks may form themselves into a Cooperative Common Service Society and apply in writing, in the prescribed form, to the Registrar, Co-operative Societies, West Bengal for registration of such society under the West Bengal Co-operative Societies Act, 1973.

(2) The Registrar may, after such enquiry as he may deem fit, register the society under the West Bengal Co-operative Societies Act, 1973 and grant a certificate, and on such registration the provisions of the West Bengal Co-operative Societies Act, 1973, shall, subject to the special provisions of this Act, apply to such a society and the society may enlist new members in accordance with the rules and bye-laws under the said Act for the time being in force :

Provided that the society shall not enlist any person as its member who owns, cultivates or possesses in any capacity agriculture land exceeding ²[0.4047 hectare] in the aggregate.

(3) Notwithstanding anything contained in the West Bengal Co-operative Societies Act, 1973 and the rules made thereunder,

(a) the Chairman of any Co-operative Common Service Society shall be nominated from amongst the elected directors of the society by the Collector having jurisdiction on receiving a written requisition from the elected directors of the society. A Chairman so nominated may be removed before expiry of the term of the managing committee of the society and a new Chairman may be nominated in his place;

(b) the first managing committee of any Co-operative Common Service Society shall hold office for a term not exceeding three years;

(c) after the expiry of the term of the first managing committee of the society, the Chairman shall be elected by the elected directors of the society.

(4) A Co-operative Common Service' Society shall raise its funds from, among other sources, the State Government, the Central Government, any bank, any insurance corporation and other financial institutions or from among its own members as grant, loan

or equity. The society shall acquire by purchase, grant, gift, hiring, or otherwise plough, cattle, manure (including chemical fertilisers), seeds, modern scientific agricultural implements and such other inputs as may be necessary for cultivation ³[and poultry farming] and supply or utilise the same among its members in proportion to the area of land held by them. The society may advance loan to the members out of its own fund ⁴ [or out of the fund raised by it].

(5) The society may recover loans, interest, service charges and any other charge for supply of implements and price or part of price of inputs supplied to the members in accordance with the bye-laws of the society specially made for this purpose.

(6) The society may undertake marketing of produces grown by its members.

1. Sec. 48A ins. by W.B. Act 50 of 1981.
2. Word and figures subs, for the words "one hectare" by W.B. Act 35 of 1986.
3. Words ins. by W.B. Act 35 of 1986.
4. Words ins. by W.B. Act 35 of 1986.

CHAPTER 6

Principles of distribution of lands

49. Principles of distribution of lands :-

(1) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, settlement of any land which is at the disposal of the State Government, shall be made without any premium being charged for it, in such manner as may be prescribed, with persons who are residents of the locality where the land is situated, and who together with other members of their family, own no land or less than [0.4047 hectares of land used for the purpose of agriculture], one half of the lands cultivated by them as bargadars being taken into account for the purpose of calculating the aggregate of such land and subject to the following conditions namely :

(a) that, in the case of agricultural land such person intends to bring the land under personal cultivation,

(b) that, in the case of homestead land, such person having no homestead of his own, intends to construct a dwelling house thereon, and

(c) such other terms and conditions as may be prescribed :

Provided that among the persons eligible for such settlement, preference shall be given to persons belonging to Scheduled Caste or Scheduled Tribe or who form themselves into a Co-operative Society for the purpose :

1 Provided further that no settlement of land shall be made with any person or with a member of the family of any such person, who is engaged or employed in any business, trade, undertaking, manufacture, calling, service, or industrial occupation:

2 Provided also that nothing in this sub-section shall apply to any case when freehold title-deed for land is given to a bonafide refugee in accordance with such norms as may be prescribed by the appropriate Department of the State Government.

1 Explanation. The second proviso to sub-section (1) shall not apply to an agricultural labourer, artisan or fisherman.

4(1A) No person with whom any land is or has been settled under subsection (1) shall be entitled to transfer such land except by way of a simple mortgage or a mortgage by deposit of title deeds in favour of a Scheduled Bank, or a Co-operative Society or a Corporation owned or controlled by the Central or State Government or both, and for the purpose of obtaining loan for the development of land or for the improvement of agricultural production or for the construction of a dwelling house.

(2) If a Revenue Officer, on his own motion or on application made to him in that behalf, after hearing the person with whom the land was settled and in the case of any subsequent transfer, the transferee as also the person who is, for the time being, in actual occupation of such land and after making such enquiry as may be prescribed, is satisfied that settlement of such land **5**[was made by mistake or obtained under any provision of this section by practice of fraud, misrepresentation, coercion or otherwise], or that a transfer of any land has been made in contravention of the provisions of sub-section (1A) he may, by order in writing annul the settlement or both the settlement and the transfer as may be deemed necessary.

6(3) When a Revenue Officer makes an order under sub-section (2) annulling settlement or both the settlement and the transfer of any land, as the case may be, the Revenue Officer shall enforce

delivery of possession of such land to the Collector by using such force as may be required after evicting the person in actual occupation of such land.

7(3A) For the purpose of enforcing delivery of possession of any land and evicting any person in actual occupation of such land under sub-section (3), any such Revenue Officer may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police-station or to any police officer superior in rank to such officer-in-charge and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for enforcing delivery of possession of such land.

8(4) Any person aggrieved by an order made under sub-section (2) may, within thirty days from the date of such order, prefer an appeal to such authority as the State Government may, by notification in the Official Gazette, specify and the order passed by such authority in appeal shall be final.

(4A) Notwithstanding anything contained in the foregoing provisions of this section, the State Government, or an officer authorised in this behalf by the State Government, may transfer to or settle with, a local body or an authority constituted or established by or under any law for the time being in force land which is at the disposal of the State Government for such purpose and on such terms and conditions as may be decided by the State Government.

9(5) Notwithstanding anything contained elsewhere in this Act, where the State Government is satisfied that it is necessary so to do for a public purpose or for establishment, maintenance or preservation of any educational or research institution or industry, settlement for any period of any land may be made with any person or institution on such terms and conditions including periodical payments, with or without any premium being charged therefor, in such manner as may be prescribed.

10Explanation I. For the purpose of this sub-section 'person' includes an individual, a firm, a company or an association or body of individuals, whether incorporated or not.

9Explanation II. For the purposes of this sub-section 'industry'

includes a tea-garden, mill, factory or workshop, livestock breeding, poultry farming, or dairy, ¹² [or township in an area declared to be a Planning Area under] the West Bengal Town and Country (Planning and Development) Act, 1979.

1. Proviso and 'Explanation' subs, by W.B. Act 41 of 1980, which were earlier as under: "Provided further that settlement of any such land or lands comprised in orchards may be made with other persons on such terms and conditions as the State Government may think fit, where such settlement is, in the opinion of the State Government, necessary for a public purpose connected with agriculture or for maintenance and preservation of the orchards, as the case may be. Explanation. The term 'family' in relation to a person referred to in sub-section (1) shall be deemed to consist of himself, his wife, sons and unmarried daughters, if any, living jointly with such person."

2. Proviso ins. by W.B. Act 31 of 2000.

4. Sub-sec. (1A) ins. by W.B. Act 23 of 1975.

5. Words subs, for the words "was obtained by any person under sub-section (1) by practising fraud or misrepresentation," by W.B. Act 41 of 1980.

6. Sub-sec. (3) first ins. by W.B. Act 28 of 1972, then subs, by W.B. Act 41 of 1980 after facing an amendment by W.B. Act 23 of 1975. Previous sub-sec. (3) was as under: "(3) When a Revenue Officer makes an order under sub-section (2) annulling settlement or both the settlement and the transfer of any land, as the case may be, the Revenue Officer shall (a) if he is a Magistrate, enforce delivery of possession of such land to the Collector, or (b) if he is not a Magistrate, apply to a Magistrate and such Magistrate shall enforce delivery of possession of such land to the Collector, after evicting the person in actual occupation of such land."

7. Sub-sec. (3A) ins. by W.B. Act 41 of 1980.

8. Sub-sec. (4) ins. by W.B. Act 28 of 1972.

9. Sub-sec. (5) ins. by W.B. Act 41 of 1980.

10. 'Explanation' to sub-sec. (5) first ins. by W.B. Act 41 of 1980, then the 'Explanation' renumbered as 'Explanation I' and 'Explanation II' ins. by W.B. Act 24 of 1996.

12. Words subs, for the words "or township approved under" by W.B. Act 31 of 2000.

49A. Penalty for un-authorized occupation of vested lands

:-

¹ Any person who

(a) being in unauthorised occupation of any land which is at the disposal of the State Government fails to vacate such land after a notice has been served on him to do so, or

(b) obstructs any person with whom any land has been settled

under sub-section (1) of section 49 from taking possession of such land, shall be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees or with both.

1. Sec. 49A ins. by W.B. Act 12 of 1976.

CHAPTER 7

[Maintenance of the record-of-rights.]

50. Maintenance of the record-of-rights :-

1(1) **2**[The prescribed authority] shall maintain up-to-date in the prescribed manner the village record-of-rights by incorporating therein the changes on account of

- (a) mutation of name as a result of transfer or inheritance;
- (b) partition, exchange, or consolidation of lands comprised in holdings, or establishment of Co-operative Farming Societies;
- (c) new settlement of lands or of holdings;
- (d) variation of revenue;
- (e) alteration in the mode of cultivation, for example, by a bargadar;
- (f) such other causes as necessitate a change in the record-of-rights.

3 (2) For every mouza in any district for which computerisation of land-record has been completed, the original set of finally published record-of-rights prepared under section 51A for such mouza of such district shall be preserved, and a set of computerised print-out of the finally published record of such mouza, duly authenticated by the prescribed authority, shall be taken up for updating and for issue of certified copies through computer. Such computerised record-of-rights, duly authenticated by the prescribed authority, shall be presumed to be correct, and on a par with the original copy of record-of-rights.

1. Sec. 50 renumbered as sub-sec. (1) of that sec. and sub-sec. (2) ins. by W.B. Act 31 of 2000.

2. Words subs, for the words "The Revenue Officer especially empowered by the State Government in this behalf by W.B. Act 50 of 1981.

3. Sec. 50 renumbered as sub-sec. (1) of that sec. and sub-sec. (2) ins. by W.B. Act 31 of 2000.

CHAPTER 7A

Preparation or revision of record-of-rights

50A. Section 50 not to apply to certain cases :-

Section 50 shall not apply to any district or part of such district where Chapter VIIA has come into force for the purpose of revision or preparation of records-of-rights; but section 50 shall apply to any land in any such district or part of such district after final publication of any such record-of-rights under section 51A :

Provided that notwithstanding any order made under sub-section (1) of section 51 in respect of a district or part of a district, the State Government may make an order directing the [prescribed authority appointed] under section 50 to incorporate such changes as may be specified in the said order in the records-in-rights in respect of such district or part of such district under section 50, if the State Government is satisfied that incorporation of such changes is necessary to mitigate the hardship of a raiyat.

50B. Modification of record-of-rights :-

(1) The State Government may, in any case where it so thinks fit, make an order by notification published in the Official Gazette, directing that the record-of-rights in respect of a district or part of a district, as maintained up-to-date under section 50, be modified by eliminating from such record the entries, if any, which have been deleted and scored out under that section from time to time.

(2) When an order is made under sub-section (1), the prescribed authority appointed under section 50 (hereinafter referred to in this section as the prescribed authority) shall modify in the prescribed manner the record-of-rights in accordance with the provisions of sub-section (1).

(3) When a record-of-rights is modified, the prescribed authority shall publish a draft of the record modified in the prescribed manner and for the prescribed period and shall receive and consider any objection to any entry therein or to any omission therefrom.

(4) When all such objections under sub-section (3) have been considered and disposed of, the prescribed authority shall cause the modified record to be finally published in the prescribed manner and shall certify the fact of final publication and the date thereof, and shall date and superscribe the same under his name and official designation.

(5) Any officer specially empowered by the State Government in this behalf may, within such period as may be prescribed, revise in the prescribed manner any entry in a record finally published under sub-section (4) after giving the person or persons interested an opportunity of being heard and after recording reasons therefor.

(6) Every entry in a modified record-of-rights finally published under sub-section (4), including any entry revised under sub-section (5), shall be presumed to be correct.

(7) The provisions of this section shall not apply to a record-of-rights in respect of a village, the revision or preparation of which has commenced under Chapter VIIA, but shall apply to such record-of-rights after its final publication under sub-section (2) of section 51A.

(8) When an order has been made under sub-section (1), no Civil Court shall entertain any suit or application which involves correction, revision, modification or cancellation of any entry in the record-of-rights of a village in accordance with such order, till the record-of-rights relating to such village is finally published under sub-section (4), and if any suit or application relating to any entry in such record-of-rights is pending before a Civil Court on the date of issue so such order, such suit or application, as the case may be, shall abate.

51. Revision or preparation of the record-of-rights :-

(1) The State Government may, in any case if it so thinks fit, make an order directing that record-of-rights. in respect of any district or part of a district be revised or prepared by a Revenue Officer in accordance with the provisions of this Chapter and such rules as may be made by the State Government in this behalf.

(2) A notification in the Official Gazette of an order under sub-section (1) shall be conclusive evidence that the order has been duly made.

(3) When an order is made under sub-section (1), the Revenue Officer shall record in the record-of-rights to be revised or prepared in pursuance of such order, such particulars as may be prescribed.

(4)OMITED *****

(5) There shall be a separate Khatian for each raiyat and the Khatian shall include all lands held by such raiyat in one mauza.

51A. Draft and final publication of the record-of-rights :-

(1) When a record-of-rights has been revised or prepared, the Revenue Officer shall publish a draft of the record so revised or prepared in the prescribed manner and for the prescribed period and shall receive and consider any objections which may be made during such period to any entry therein or to any omission therefrom.

(2) When all such objections have been considered and disposed of according to such rules as the State Government may make in this behalf, the Revenue Officer shall finally prepare the record and cause such record to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same under his name and official designation.

(3) Separate publication of different parts of draft or final records may be made under sub-section (1) or sub-section (2) for different local areas.

(4) An officer specially empowered by the State Government may, on application within one year, or on his own motion [within twenty-five years,] from the date of publication of the record-of-rights under sub-section (2), revise an entry in the record finally published in accordance with the provisions of sub-section (2) after the persons interested are given an opportunity of being heard and after recording reasons therefor.

(5) Any person aggrieved by an order passed in revision under subsection (4) may, within such period, and on payment of such fee, as may be prescribed, appeal in the prescribed manner to the prescribed authority of the district in which the land referred to in the record-of-rights is situated :

Provided that where the appeal is preferred to a Collector, he may transfer the appeal to such officer subordinate to him as may be prescribed :

Provided further that the officer to whom the appeal is transferred is superior in rank or position to the officer or authority making the order appealed against.

(6) The certificate of final publication referred to in sub-section (2), or in the absence of such certificate, a certificate signed by the

Collector of any district in which the area to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published on a specified date, shall be conclusive proof of such publication and of the date thereof.

(7) The State Government may, by notification in the Official Gazette, declare with regard to any area specified in the notification that the record-of-rights for every village included in such area has been finally published and such notification shall be conclusive proof of such publication.

(8) In any suit or other proceeding in which a record-of-rights revised or prepared and finally published under this Chapter, or a duly certified copy of the record or an extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied.

(9) Every entry in the record-of-rights finally published under sub-section (2) including an entry revised under sub-section (4) or corrected under section 51B [or section 51BB] shall, subject to any modification by an order on appeal under sub-section (5), be presumed to be correct * * * *.

51B. Revision or correction of entry in record-of-rights :-

(1) Any Revenue Officer specially empowered by the State Government in this behalf may, on an application or on his own motion, at any stage of revision or preparation of the record-of-rights under this Chapter but before final publication of any such record-of-rights, revise or correct any entry in such record-of-rights after giving the persons interested an opportunity of being heard and after recording the reasons therefor :

Provided that any order made under this sub-section shall be appealable in accordance with the provisions of sub-section (5) of section 51A.

51BB. Revision or correction of entry in record-of-rights before or after final publication :-

An officer specially empowered in this behalf by the State Government may revise or correct any entry in any record-of-rights in respect of a mouza at any stage before or after final publication of such record-of-rights under this Chapter if it is necessary, in his opinion, to do so in pursuance of an order under Chapter IIB or on account of any amendment made in the provisions of this Act :

Provided that no such revision or correction shall be made, except when it is necessary to do so in order to prepare a separate khatian as required under sub-section (5) of section 51 by amalgamating the khatians in respect of a raiyat already prepared or finally published under this Chapter or to correct a bona fide mistake, until a notice has been given to the persons interested to appear and be heard in the matter.

51C. Bar to jurisdiction of Civil Court in respect of certain matters :-

1

2(1) When an order has been made under sub-section (1) of section 51 directing revision or preparation of a record-of-rights, no Civil Court shall entertain any suit or application for the determination of revenue or the incidents of any tenancy to which the record-of-rights relates, and if any suit or application in which any of the aforesaid matters is in issue, is pending before a Civil Court on the date of such order, it shall be stayed and it shall, on the expiry of the period prescribed for an appeal under sub-section (5) of section 51A or when such an appeal has been filed under that sub-section, as the case may be, on the disposal of such appeal, abate so far as it relates to any of the aforesaid matters.

Explanation. In this section "suit" includes an appeal.

2(2) No Civil Court shall entertain any suit or application concerning any land if it relates to alteration of any entry in the record-or-rights finally published, revised, corrected or modified under any of the provisions of this Chapter.

4 (3)*****

1. Sec. 51C ins. by W.B. Act 18 of 1965.
2. Sec. 51C renumbered as sub-sec. (1) of that sec. and sub-sec. (2) ins. by W.B. Act 33 of 1974.
4. Sec. 51D first ins. by W.B. Act 18 of 1965, then om. by W.B. Act 12 of 1972. The section was as under: "51D. Appointment of Special Judge. The State Government may appoint a person who is or has been a District Judge or an Additional District Judge for the purpose of sub-section (5) of section 51A."

CHAPTER 8

Management of Lands

52. Management of Lands :-

(1) All lands to which this Act applies shall be deemed to have been held under the State on such terms and conditions as may be prescribed.

(2) Any land belonging to the State or land which is at the disposal of the State Government or held under the State by virtue of the provisions of the West Bengal Estates Acquisition Act, 1953 or this Act or any other law in force shall, unless the State Government otherwise directs by any general or special order, be managed, in such manner as may be prescribed, by the Collector of the district under whose jurisdiction the lands are situated subject to the control of the State Government.

(3) If the State Government is of opinion that different sets of rules are necessary for the management of different classes or descriptions of lands or lands of different areas, it may make different sets of rules under this section.

(4) Until rules made under this section come into operation, management of any land covered by this Act shall continue to be made in accordance with the existing law or rules or manual or principles, whichever may apply.

52A. Provision for establishment of Government Company, etc :-

The State Government may, while making rules under section 52, provide for the establishment of any Government Company or any co-operative society or any institution in the public interest for utilisation of any land.

52B. Power to enter upon or take possession of land :-

Notwithstanding anything in any other law for the time being in force or in any custom, usage or contract or in any agreement, decree, order decision or award of any court, tribunal or other authority, the State Government shall be entitled to enter upon and take possession of any land which is at the disposal of the State Government by evicting, if necessary, any person therefrom by an order of the prescribed authority in accordance with the provisions of section 49.

Explanation. The expression "any land at the disposal of the State Government" shall include any land of which any lease, or licence has been determined by the application of any law, by efflux of time, due to rescission of lease, leave or licence or due to violation of the terms of the lease, leave or licence, as the case may be, or

for any other reason, and any land which has been abandoned by the lessee or licensee.

CHAPTER 9

Miscellaneous

53. Delegation of powers by the State Government :-

The State Government may by a notification in the Official Gazette delegate any of the powers under [sub-section (2A) of section 4, 3{sub-section (2) of section 14U} section 22, section 39 and section 40] to be exercised by the prescribed authority subject to such reservation, as may be specified in the notification.

53A. Revenue Officer to be a necessary party in all suits, etc :-

Notwithstanding anything contained elsewhere in this Act or in any law for the time being in force, the Revenue Officer having jurisdiction in the area in which any land is situated shall be necessary party to all suits of a civil nature relating to any such land or portion thereof in which one of the parties to the suit is a member of any Scheduled Tribe and the other party is not a member of any Scheduled Tribe.

54. Appeals :-

(1) Subject to any special provisions for appeal made in this Act or in any rules made under this Act, an appeal shall lie in the manner indicated below

(a) to a Collector, when the order is made by a Revenue Officer or revenue authority below the rank of a Collector;

(b) to the Commissioner of the Division, when the order is made by the Collector of a district within the Division;

(C) * * * * * .,

(D) * * * * * .,

(2) Where, at the commencement of section 22 of the West Bengal Land Reforms (Amendment) Act, 1971, any appeal is pending before the Member, Board of Revenue, such appeal shall, notwithstanding anything contained in sub-section (1), be disposed of by such Member.

(3) After any appeal is preferred to a Collector, he may transfer the appeal to any officer subordinate to him as may be prescribed :

Provided that the officer to whom the appeal is transferred is superior in rank or position to the officer or authority making the order appealed against.

(4) An order passed in appeal shall be final.

(5) Notwithstanding anything contained elsewhere in this Act, the State Government may, on its own motion, correct any erroneous decision passed by any Revenue Officer or by any officer in an appeal under the foregoing provisions of this section and any such order passed by the State Government shall be final and shall not be called in question in any court.

55. Limitation for appeals :-

Save as expressly provided in this Act or the rules made thereunder, the period of limitation for an appeal under section 54 shall run from the date of the order appealed against and shall be as follows, that is to say

(a) when the appeal lies [to a Collector]

(b) when the appeal lies to the Commissioner of a Division sixty days;

(C)*****.

56. Power to enter upon land, to make survey, etc :-

A Revenue Officer, or any officer authorised by him subject to any rules made under this Act, may at any time enter upon any land but not a dwelling house with such officers or other persons as he considers necessary, and make a survey or take measurement thereof or do any other acts which he considers to be necessary for carrying out any of his duties under this Act.

57. Powers of officers, dealing with proceedings under this Act :-

Subject to the provisions of this Act and any rules made thereunder, any officer in dealing with proceedings under this Act shall exercise the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of

(a) summoning and enforcing the attendance of any person and examining him on oath as a witness,

(b) requiring the discovery and production of any document or record,

(c) receiving evidence on affidavits,

(d) requisitioning any public record or copy thereof from any Court or office,

(e) issuing commission for the examination of witness or documents,

(f) enforcing or executing orders including an order for restoration of possession as if such orders were decrees of a Civil Court,

(g) remanding any case or proceedings to the officer from whose decree the appeal is preferred, and such officer shall record the substance of the evidence, if any, taken by him.

57A. Vesting of powers of Civil Court under the Code of Civil Procedure. 1908 :-

¹ The State Government may, by order published in the Official Gazette, vest any officer or authority with all or any of the power of a Civil Court under the Code of Civil Procedure, 1908.

1. Sec. 57A ins by W.B. Act 31 of 2000.

58. Protection of action taken under this Act :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or for any injury suffered or likely to be suffered by virtue of any provisions of this Act or by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

59. Repeal :-

¹[Without prejudice to the provisions of clause (p) of section 2 of the West Bengal Estates Acquisition Act, 1953, the following] Regulation and Acts are hereby repealed, namely :

(1) The Bengal Alluvion and Diluvion Regulation, 1825.

(2) The Bengal Alluvion and Diluvion Act, 1847.

(3) The Bengal Alluvial Land Settlement Act, 1858.

(4) The Bengal Rent Act, 1859.

(5) The Bengal Tenancy Act, 1885.

(6) The Cooch Behar Tenancy Act, 1910.

(7) The West Bengal Bargadars Act, 1950.

2 (8)*****

1. Words, figures, letters and brackets subs, for the words "The following" by W.B. Act 18 of 1965.

2. Proviso om, by W.B. Act 18 of 1965.

60. Power to make rules :-

(1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) The rules so made shall have effect as if they were incorporated in this Act.

61. Bar to jurisdiction of court :-

(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force or in any decree, judgment, decision or award of any court, tribunal or authority, no court shall have jurisdiction to determine any question relating to any land or connected with any matter which is required to be or which has been enquired into or decided by any Revenue Officer or prescribed authority or any officer or authority under the provisions of this Act.

(2) Any Revenue Officer or prescribed authority or other officer or authority empowered under the provisions of this Act shall have exclusive jurisdiction to enquire into and decide any question relating to any land in connection with any matter which is required to be enquired into or decided by any prescribed authority or other officer or authority under the provisions of this Act.

(3) Nothing in sub-section (1) and sub-section (2.) shall be deemed to affect any right which the parties to any dispute may otherwise have against each other.

62. Power to State Government to give directions :-

The State Government may give such directions, not inconsistent with the provisions of this Act, to any Collector, Revenue Officer or prescribed authority under this Act as may appear to the State Government to be necessary for carrying out the purposes of this Act or any rule made thereunder.

63. Repeal and savings :-

(1) With effect from the date of coming into force of the West Bengal Land Reforms (Amendment) Act, 1981 in any district or in any area of Calcutta, such provisions of the West Bengal Non-Agricultural Tenancy Act, 1949, as are repugnant to the provisions of this Act, shall cease to have effect in that district or area.

(2) Notwithstanding the provisions of sub-section (1) any proceeding pending on the date of such coming into force before any authority appointed under the West Bengal Non-Agricultural Tenancy Act, 1949 or before any court shall be continued or disposed of as if the West Bengal Land Reforms (Amendment) Act, 1981 had not come into force in that district or area.